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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

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SOLAS OLED LTD.,) (CIVIL ACTION NO.

4

PLAINTIFF,) (2:19-CV-152-JRG

5

VS.) (

6

SAMSUNG DISPLAY CO., LTD.,) (MARSHALL, TEXAS
SAMSUNG ELECTRONICS CO.,) (

7

LTD., SAMSUNG ELECTRONICS) (MARCH 1, 2021

8

AMERICA, INC.,) (9:38 A.M.

9

DEFENDANTS.) (

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TRANSCRIPT OF VOIR DIRE OF THE JURY PANEL

11

BEFORE THE HONORABLE JUDGE RODNEY GILSTRAP

12

UNITED STATES CHIEF DISTRICT JUDGE

13

14 APPEARANCES:

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16

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(Proceedings recorded by mechanical stenography, transcript
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P R O C E E D I N G S

COURT SECURITY OFFICER: All rise.

THE COURT: Be seated, please.

Good morning, ladies and gentlemen. Thank you all for being here.

My name is Rodney Gilstrap, and I am the Chief United States District Judge for the United States District Court for the Eastern District of Texas.

I have lived in Marshall, Texas, since 1981. I practiced law in this area for 30 years. After 30 years of practicing law, I was nominated by the President to this position, and I was confirmed and became a U.S. District Judge in 2011.

I have a confession to make to all of you. I was not born in Texas. But I got here as fast as I could.

I was born in Florida, and I came to Texas to go to law school at Baylor -- to go to college, rather, and then law school at Baylor University.

And I am married and I have two grown children, and my wife owns and operates a retail floral business here in Marshall.

Now, I tell you all these things about myself because in a few minutes, I'm going to ask each of you to give me the same kind of information about yourselves, and I think you're entitled to know as much about me as I'm

09:40:20 1 about to find out from each of you all.

09:40:23 2 We are about to engage in the selection of a jury
09:40:26 3 in a civil case involving allegations of patent
09:40:29 4 infringement.

09:40:31 5 However, before we go any further, I'd like to
09:40:35 6 briefly mention some of the health and safety precautions
09:40:38 7 that we're going to be taking during this trial. All of
09:40:41 8 you are aware that we're in a national and international
09:40:44 9 pandemic. That's why I prepared a separate letter to each
09:40:49 10 of you all that went out with your summons outlining
09:40:53 11 generally some of the precautions and procedures that we're
09:40:56 12 going to implement today.

09:40:58 13 There are some additional safeguards that I'll be
09:41:01 14 implementing as we go forward with jury selection and then
09:41:04 15 with the trial of this case, and I'll go over those with
09:41:08 16 you -- some of them now and some of them as we get to them
09:41:12 17 as part of the process.

09:41:13 18 Eight of you are going to be selected to serve as
09:41:16 19 jurors in this case, and each member of the jury, when you
09:41:20 20 appear tomorrow, will have your temperature taken as you
09:41:25 21 enter the courthouse and you'll have your temperature taken
09:41:28 22 each day during the trial as you enter the courthouse.

09:41:31 23 Once the eight of you are seated in the jury box
09:41:35 24 as the jury in this case, I'm going to ask you to consider
09:41:43 25 doing one of two things for me. I'm going to ask that you

09:41:46 1 consider replacing your masks with a plastic face shield.
09:41:52 2 And if you are uncomfortable with that, we have clear masks
09:41:58 3 to replace the masks that you have on now that you can't
09:42:03 4 see through.

09:42:04 5 Let me explain, ladies and gentlemen, it's very
09:42:06 6 important that the lawyers and the Court be able to see the
09:42:11 7 entirety of your face if you're on this jury. Every lawyer
09:42:14 8 wants to know if what he or she is trying to get across is
09:42:17 9 hitting home or if it's going over your head. And when 50
09:42:20 10 percent or more of your face is covered up with a mask,
09:42:25 11 they can't tell. And so for them to properly try this
09:42:27 12 case, counsel for both of the parties, all the parties,
09:42:31 13 they need a clear view of each juror's face.

09:42:33 14 Understanding, though, that you may not be
09:42:37 15 comfortable having no facial protection, we've acquired
09:42:41 16 either these face shields or clear face masks. If you'd
09:42:45 17 like to wear both of them, that's fine. But I'm going to
09:42:48 18 ask the eight of you that are selected as jurors, once
09:42:51 19 you're in the jury box and seated and sworn, that you take
09:42:55 20 whatever kind of masks you've got on now, and I see
09:42:58 21 everything under the rainbow out there, and replace it with
09:43:01 22 something that's clear and see-through so that the jury and
09:43:04 23 the Court can have a -- excuse me, so that the lawyers and
09:43:07 24 the Court can have a clear view of your face as we go
09:43:11 25 through the trial.

09:43:12 1 That's part of why I've taken my mask off. I want
09:43:16 2 you to be able to see me as I speak to you.

09:43:18 3 And so you'll understand, the rule for counsel in
09:43:20 4 this case is they're to remain masked, except when a member
09:43:25 5 of a trial team goes to the podium to address you or to
09:43:29 6 address me, in which case when they go to the podium,
09:43:32 7 they'll remove their mask.

09:43:34 8 When they leave the podium, they'll put their mask
09:43:38 9 back on. That way when they're talking to you, you'll see
09:43:41 10 their entire face, and when they're talking to me, I'll see
09:43:44 11 their entire face. And, hopefully, we'll see the eight of
09:43:48 12 you on the jury the entire trial, see the entirety of your
09:43:51 13 faces. So keep that in mind, if you will.

09:43:53 14 Also, when we select the eight of you that will
09:43:57 15 serve as the jury, and that selection process is complete,
09:44:01 16 we're going to space you in the jury box so that there's a
09:44:04 17 vacant chair between you.

09:44:06 18 We'll put the first four of you on the front row
09:44:06 19 with an empty seat between each of you and the second four
09:44:10 20 of you on the back row with an empty seat between each of
09:44:13 21 you. And if you'll stay in those particular places, once
09:44:16 22 you get there throughout the trial; in other words, if
09:44:19 23 you're the first person on the far end of the front row,
09:44:22 24 you should always be the first person on the far end of the
09:44:25 25 front row throughout the trial.

09:44:26 1 It's not like assigned seats in grade school, but
09:44:32 2 it's important for me to know that Ms. Jones or Mr. Smith,
09:44:36 3 or whoever you are that's in the first chair, is always the
09:44:39 4 person that's in the first chair. So stay in those same
09:44:42 5 positions as we go through the process.

09:44:44 6 Also, you need to know that I've ordered that the
09:44:47 7 jury box, the jury room, the restrooms that are adjacent to
09:44:52 8 and a part of the jury room are going to be deep cleaned
09:44:56 9 every evening after we recess for the day. So those are
09:44:59 10 going to be thoroughly and completely sanitized each day.

09:45:04 11 Also, ladies and gentlemen, those of you that end
09:45:05 12 up on this jury, the Court is going to provide lunches for
09:45:08 13 you each day. You're not going to be required to leave the
09:45:10 14 courthouse and go find a lunch or bring lunch or worry
09:45:13 15 about that. The Court's going to provide box lunches for
09:45:17 16 each member of the jury each day during lunch throughout
09:45:21 17 the trial.

09:45:22 18 That will allow us to keep a shorter lunch break
09:45:26 19 and move the trial along more promptly. It will also
09:45:29 20 ensure that you don't have to get out and move around the
09:45:33 21 community and be worried about coming in contact with
09:45:36 22 anything you shouldn't. You'll be in this building each
09:45:40 23 day from the time you enter in the morning until the time I
09:45:42 24 release you to go home each night.

09:45:44 25 And don't worry about lunch. It will be provided

09:45:48 1 for you by the Court.

09:45:51 2 Also, you can't see it, but on either side of the
09:45:54 3 courtroom, in this far corner next to the end of the jury
09:45:58 4 box and next to this door on the other wall, there are two
09:46:01 5 new industrial air filter -- air filtration systems,
09:46:07 6 portable air filtration systems that are up and running.
09:46:10 7 They look like small, white refrigerators. But they are
09:46:14 8 filtering the air throughout the courtroom, and they'll
09:46:17 9 continue to do that throughout the trial.

09:46:18 10 There will probably be some other precautions that
09:46:21 11 I haven't mentioned now, and I'll mention those to you as
09:46:24 12 we go through the rest of the trial. All of this is so
09:46:28 13 that we can ensure a fair and impartial and a safe trial.
09:46:31 14 But I want to make you aware of these things.

09:46:33 15 Also, ladies and gentlemen, if you'll indulge me
09:46:37 16 for just a minute, at this point, I want to briefly review
09:46:41 17 with each of you how we came to have our American civil
09:46:44 18 jury trial system.

09:46:45 19 If you go back in ancient history and if you turn
09:46:50 20 to the Pentateuch, the first five books in the Old
09:46:53 21 Testament, you'll see that the ancient Hebrew nation
09:46:56 22 empaneled juries to determine questions of property
09:46:59 23 ownership and property value.

09:47:01 24 You'll also find in ancient history that the
09:47:04 25 ancient Greeks used a jury system, and they began using a

09:47:08 1 jury system about 1500 BC. The Romans used a jury system,
09:47:15 2 which they, like many things, copied from the ancient
09:47:18 3 Greeks, and it was the Romans who brought the jury trial
09:47:22 4 system to what is now England when they conquered that
09:47:26 5 island in the fourth century AD.

09:47:29 6 And from that time forward, a jury trial system
09:47:32 7 was in place on the island that is known as Great Britain
09:47:36 8 or England from that time forward. And after eight hundred
09:47:42 9 years of use of a jury trial system brought to that island
09:47:46 10 by the Romans, jury trials were used throughout that
09:47:48 11 country.

09:47:49 12 However, in about the 12th century, a tyrannical
09:47:55 13 king came to the throne of Great Britain named King John,
09:48:00 14 and King John set about trying to discontinue and prevent
09:48:03 15 his citizens and nobles from using a jury trial system.
09:48:06 16 And there were many other disputes between King John and
09:48:09 17 his nobles. And those disputes, including this dispute
09:48:14 18 over the jury trial, led to the verge of the civil war.

09:48:18 19 That civil war, however, was averted by a written
09:48:22 20 agreement compromising and settling all these disputes that
09:48:25 21 the king entered into with his nobles. It was signed at a
09:48:29 22 place in England known as Runnymede, and the document that
09:48:32 23 resolved these disputes and continued the right to trial by
09:48:39 24 jury in England was known as the Magna Carta. I'm sure all
09:48:42 25 of you have heard of the Magna Carta.

09:48:44 1 In fact, ladies and gentlemen, you might be
09:48:47 2 interested to know that 28 of our 50 United States have
09:48:53 3 written into their own state constitutions the exact
09:48:57 4 language from the Magna Carta that guarantees the right to
09:49:01 5 trial by jury.

09:49:01 6 So you can see that the right to trial by jury was
09:49:07 7 an established and known right when our founding fathers
09:49:13 8 came to these shores in North America as British colonists,
09:49:19 9 and, in fact, they brought the jury trial system with them
09:49:21 10 from England. And that jury trial system flourished in
09:49:24 11 this country for over a hundred years.

09:49:26 12 However, along came another tyrannical king to the
09:49:31 13 throne of Great Britain. This time his name was
09:49:36 14 King George, III. And to some extent like King John,
09:49:40 15 King George, III, became embroiled in ongoing, wide-ranging
09:49:45 16 disputes with his colonists here in America. However, this
09:49:50 17 time it did lead to a war. It led to the American
09:49:54 18 Revolution.

09:49:54 19 In fact, if you look at the Declaration of
09:49:57 20 Independence written by Thomas Jefferson, which outlines
09:50:00 21 the various complaints, disputes, and issues requiring in
09:50:04 22 the minds of our forefathers that they separate from Great
09:50:09 23 Britain, King George, III's attempts to prevent and
09:50:14 24 frustrate the right to trial by jury is spelled out in the
09:50:16 25 Declaration of Independence as one of the reasons

09:50:19 1 necessitating our revolution and our separation from
09:50:23 2 England as a separate and independent country.

09:50:26 3 So it should be no surprise to you that after the
09:50:35 4 American Revolution was ended and we adopted the governing
09:50:39 5 document for our country, the Constitution of the United
09:50:43 6 States, that the right to trial by jury would be a part of
09:50:46 7 that document.

09:50:46 8 And in fact -- excuse me, in fact, ladies and
09:50:50 9 gentlemen, the right to trial by jury in a civil case is
09:50:55 10 protected in our United States Constitution. It is a part
09:50:58 11 of the first 10 amendments to that Constitution known as
09:51:02 12 the Bill of Rights.

09:51:03 13 It is the Seventh Amendment to the U.S.
09:51:06 14 Constitution which guarantees the right to every American
09:51:09 15 citizen to resolve their disputes in civil matters with a
09:51:12 16 jury, just as we're going to do in this trial.

09:51:14 17 And the Bill of Rights, including the Seventh
09:51:18 18 Amendment, was ratified in 1791. That means for well over
09:51:23 19 200 years, every American citizen has had this guaranteed
09:51:27 20 constitutional right to resolve their civil disputes
09:51:31 21 through a jury trial such as we're going to have in this
09:51:34 22 case.

09:51:35 23 So by being here this morning, ladies and
09:51:37 24 gentlemen, and part of why I wanted to go through this
09:51:39 25 brief historical review with you, is to let you know that

09:51:42 1 by you being here this morning in a very real and tangible
09:51:46 2 sense, you are doing your part as American citizens to
09:51:51 3 preserve, protect, and defend the rights of our
09:51:56 4 Constitution, in this case, particularly the Seventh
09:51:59 5 Amendment and the right to trial by jury in a civil case.

09:52:01 6 I always tell citizens who appear for jury duty,
09:52:05 7 as you have this morning, that in my personal opinion, jury
09:52:09 8 service is the second highest form of public service that
09:52:13 9 any American citizen can render to our country. Of course,
09:52:17 10 in my view, the highest form of public service for any
09:52:21 11 American citizen are those young men and women who serve in
09:52:25 12 our armed forces.

09:52:27 13 Now, I want you to understand that when the
09:52:29 14 lawyers address you this morning, and they're going to do
09:52:32 15 that shortly, they're going to ask you various questions.
09:52:36 16 And you should understand that they are not seeking to
09:52:40 17 inquire unduly into your personal affairs.

09:52:43 18 Said another way, ladies and gentlemen, they're
09:52:46 19 not trying to be nosy. They're trying to gather relevant
09:52:49 20 information for purposes of properly selecting a jury that
09:52:53 21 will be fair and impartial to hear the evidence in this
09:52:56 22 case and to return a verdict.

09:52:57 23 So they're entitled to ask the questions that they
09:53:01 24 will ask you. But please understand, they're not trying to
09:53:07 25 pry. They're trying to carry out their required obligation

09:53:10 1 as part of the Court process to secure a fair and an
09:53:13 2 impartial jury.

09:53:14 3 The other thing for you to remember about these
09:53:16 4 questions that will be asked later in the process is that
09:53:21 5 there are no wrong answers, as long as the answers you give
09:53:24 6 to the questions asked are full, complete, and truthful.
09:53:27 7 As long as your response is full, complete, and truthful,
09:53:30 8 there are no wrong answers to any of the questions you'll
09:53:34 9 be asked.

09:53:35 10 I don't know if it will happen today, I want you
09:53:38 11 to know it rarely does, but every once in a great while,
09:53:42 12 somebody on a jury panel is asked a question that they
09:53:45 13 believe in their own minds is so personal or so private
09:53:48 14 that they're not comfortable in answering that before
09:53:52 15 everybody on this panel.

09:53:54 16 If that should occur -- again, I don't think it's
09:53:56 17 likely, it's a rarity -- but if it should occur today, you
09:54:00 18 always have the option of saying in response to that
09:54:02 19 question: I'd like to discuss that with Judge Gilstrap.
09:54:06 20 And if that's your answer, I'll provide a time and an
09:54:09 21 opportunity to answer that question outside of the presence
09:54:12 22 of everybody else on the panel.

09:54:14 23 But, as I say, ladies and gentlemen, that doesn't
09:54:17 24 come up very often, but I want you to know that it does
09:54:23 25 exist.

09:54:23 1 Excuse me.

09:54:26 2 Now, the trial in this case is going to begin
09:54:29 3 later today after we've selected, sworn, and seated the
09:54:32 4 jury in this case. And it's my best estimate that it will
09:54:36 5 take all of the rest of this week to try this case. That
09:54:41 6 would put us from March the 1st through March the 5th.

09:54:46 7 There is a small chance we could possibly go over
09:54:49 8 into Monday of next week, which would be the 8th. I don't
09:54:53 9 think we will, but it's possible. These are not
09:54:56 10 guarantees. These are my best estimates. But I'm
09:54:58 11 confident that it will take the remainder of this week to
09:55:01 12 try the case.

09:55:02 13 So if any of you have a surgical procedure that
09:55:06 14 you are scheduled to undergo this week or a member of your
09:55:11 15 immediate family that's depending on you has a surgical
09:55:14 16 procedure to be undertaken this week, if you have -- you
09:55:19 17 know, this used to be a common thing pre-pandemic, but I
09:55:23 18 would've used to say if you had prepaid vacation tickets
09:55:27 19 that can't be refunded -- not many of us are taking
09:55:30 20 vacations these days -- but if you have travel plans that
09:55:33 21 are paid and non-refundable, if you have something that is
09:55:36 22 seriously an impediment to you being available to be here
09:55:43 23 for the entirety of this trial over this week, then that's
09:55:45 24 something I need to know about.

09:55:46 25 If that's the case and if that applies to any of

09:55:50 1 you, would you raise your hands and let me make a note of
09:55:52 2 it?

09:55:52 3 Okay. No. 6.

09:55:55 4 Anybody else? If I see any other hands? Just
09:55:58 5 that one.

09:55:59 6 Okay. Thank you.

09:56:01 7 At this time, I'm going to call for announcements
09:56:06 8 in the case of Solas OLED Limited versus Samsung Display
09:56:12 9 Company, Limited; Samsung Electronics Company, Limited; and
09:56:16 10 Samsung Electronics America, Inc. This is Civil Case No.
09:56:20 11 2:19-CV-152.

09:56:23 12 And, counsel, as you give your announcements from
09:56:26 13 the podium, please identify yourself and the members of
09:56:29 14 your trial team that are present with you.

09:56:31 15 We'll begin with the Plaintiff. What says the
09:56:33 16 Plaintiff?

09:56:34 17 MR. WARD: Johnny Ward for the Plaintiff, Solas.
09:56:40 18 And we are ready to proceed.

09:56:41 19 The only other member of our trial team in the
09:56:45 20 courtroom right now is Mr. Marc Fenster. Do you want me to
09:56:49 21 introduce the other members of my trial team that are not
09:56:53 22 in my courtroom, Your Honor?

09:56:54 23 THE COURT: Why don't you introduce the other two
09:56:56 24 gentlemen that are at the table with you.

09:56:59 25 MR. WARD: Sure. Seated at the table is Mr. Gerry

09:57:03 1 Padian. He's CEO of Solas. And Mr. Robert Hirschhorn
09:57:06 2 from Argyle, Texas. He's an attorney helping me with jury
09:57:09 3 selection.

09:57:09 4 THE COURT: All right. Thank you, Mr. Ward.

09:57:12 5 What's the announcement from the Defendants?

09:57:14 6 MR. HASLAM: Good morning, Your Honor. Bob Haslam
09:57:17 7 for the Samsung Defendants. With me is Melissa Smith and
09:57:24 8 Allison Wang.

09:57:28 9 THE COURT: All right.

09:57:28 10 MR. HASLAM: And we're ready to go.

09:57:30 11 THE COURT: Thank you, sir.

09:57:30 12 As I've told you, ladies and gentlemen, this is a
09:57:32 13 patent case arising under the patent laws of the United
09:57:37 14 States. And what the Plaintiff is claiming in this case is
09:57:40 15 that three of its patents were infringed by the Defendants,
09:57:44 16 and it's seeking money damages because of that alleged
09:57:46 17 infringement.

09:57:49 18 The Defendants deny that they infringe any of the
09:57:52 19 Plaintiff's patents, and they contend that two of those
09:57:55 20 three patents are invalid.

09:57:56 21 Now, what I've just told you is a very shorthand,
09:58:01 22 informal layman's version of what's at issue in this case.
09:58:05 23 I know that all of you have seen the video prepared by the
09:58:08 24 Federal Judicial Center on patent cases. And having seen
09:58:11 25 that, you know more about patent cases than most people do

09:58:15 1 when they appear for jury service in a case like this.

09:58:17 2 As I mentioned, the lawyers on both sides are
09:58:22 3 going to question the entirety of the panel in a few
09:58:24 4 minutes. That is so they can gather relevant information,
09:58:28 5 exercise their peremptory challenges as afforded by the
09:58:32 6 Court, and complete the process of selecting eight of you
09:58:35 7 to serve as the jury in this case.

09:58:37 8 Again, ladies and gentlemen, as long as the
09:58:40 9 answers you give to any question you're going to be asked
09:58:42 10 today are full, complete, and truthful, there will be no
09:58:46 11 wrong answers.

09:58:46 12 As I said earlier, the lawyers are entitled to ask
09:58:50 13 the questions that they will ask you for purposes of doing
09:58:54 14 what the law requires them to do.

09:58:56 15 If anyone should ask an improper question in my
09:59:00 16 view, I will certainly stop the lawyer. But I want you to
09:59:04 17 understand, ladies and gentlemen, these are very
09:59:06 18 experienced trial teams on both sides. I do not expect
09:59:08 19 that to happen. They're well familiar with the rules of
09:59:12 20 the Court, the Federal Rules of Civil Procedure, and the
09:59:14 21 other documents governing the trial of this case. So I do
09:59:17 22 not expect there to be any improper questions that are
09:59:19 23 asked.

09:59:20 24 One thing I do want to call your attention to
09:59:24 25 before the lawyers address you, because it's possible that

09:59:27 1 some of them may ask you about your ability to do this, and
09:59:32 2 that is I want to discuss with you the burden of proof.

09:59:34 3 In a patent case such as this, the jury that's
09:59:39 4 selected will be called upon to apply -- or may be called
09:59:43 5 upon to apply two different burdens of proof.

09:59:47 6 The jury may apply a burden of proof known as the
09:59:50 7 preponderance of the evidence. And I'll say that again,
09:59:55 8 the preponderance of the evidence. As well as a second
10:00:00 9 burden of proof known as clear and convincing evidence.
10:00:02 10 And I'll repeat that, clear and convincing evidence.

10:00:08 11 Now, when responding to any lawyer's question
10:00:12 12 about your ability to apply the burden of proof in this
10:00:14 13 case, I need to instruct you that when a party has the
10:00:18 14 burden of proof on any claim or defense by a preponderance
10:00:22 15 of the evidence, it means that the jury must be persuaded
10:00:27 16 by the credible or believable evidence that that claim or
10:00:30 17 defense is more probably true than not true. Let me say
10:00:36 18 that again, more probably true than not true.

10:00:38 19 Sometimes this is talked about as being the
10:00:43 20 greater weight and degree of credible testimony.

10:00:47 21 Let me give you what I hope will be a helpful
10:00:51 22 example. I think every one of you in the courtroom can see
10:00:53 23 in front of me and in front of our court reporter a statue
10:00:58 24 of the Lady of Justice. She's blindfolded. She holds
10:01:04 25 lowered at her right side the sword of justice. She holds

10:01:08 1 raised at her left side the Scales of Justice. And those
10:01:12 2 scales are balanced equal, identical. And that's where the
10:01:14 3 parties start off in this case, equal and identical, in the
10:01:20 4 same position.

10:01:22 5 Over the course of the trial, evidence is going to
10:01:24 6 be presented to the jury. And for purposes of this
10:01:26 7 example, think about the Plaintiff's evidence will go on
10:01:29 8 one side of those scales, and the Defendants' evidence will
10:01:31 9 go on the other side of those scales.

10:01:35 10 And if the party -- after all the evidence has
10:01:38 11 been presented, if the party who has the burden of proof by
10:01:43 12 a preponderance of the evidence, when the jury considers
10:01:47 13 the evidence on both sides of the scale, if the scale tips
10:01:50 14 in favor of the party, if their side has the most evidence
10:01:56 15 even if it tips ever so slightly in their direction, then
10:01:59 16 they've met their burden of proof of a preponderance of the
10:02:01 17 evidence.

10:02:02 18 Remember, more probably true than not true, the
10:02:09 19 greater weight and degree of credible testimony.

10:02:12 20 Now, where a party in a case like this has the
10:02:19 21 second burden of proof, clear and convincing evidence, that
10:02:28 22 means that the jury must have an abiding conviction that
10:02:30 23 the truth of the party's factual contentions are highly
10:02:35 24 probable.

10:02:36 25 Let me say that again. This applies to clear and

10:02:39 1 convincing evidence, the other burden of proof I mentioned
10:02:42 2 to you. In that case, the jury must have an abiding
10:02:46 3 conviction that the truth of the party's factual
10:02:49 4 contentions are highly probable. That's a higher standard
10:02:55 5 than the first burden of proof, the preponderance of the
10:02:58 6 evidence.

10:02:58 7 If we return to the same example, and throughout
10:03:02 8 the trial the parties start off equal, those scales are
10:03:06 9 balanced, the Plaintiff puts their evidence on one side,
10:03:08 10 the Defendant puts their evidence on the other side, and
10:03:11 11 the jury is asked to determine who is right.

10:03:15 12 If the party who has a burden of proof by clear
10:03:18 13 and convincing evidence has their part of the scale that
10:03:22 14 tips and tips more than ever so slightly, it must
10:03:26 15 definitely tip in their favor, then they've met the burden
10:03:32 16 of clear and convincing evidence. Clear and convincing
10:03:33 17 evidence is a higher burden of proof than the preponderance
10:03:38 18 of the evidence.

10:03:38 19 However, ladies and gentlemen, you should not
10:03:42 20 confuse either of these two burdens of proof with a third
10:03:47 21 burden of proof that I'm sure you've all heard about on
10:03:51 22 television, in the movies, in the media, and that is what's
10:03:56 23 called beyond a reasonable doubt.

10:03:57 24 Beyond a reasonable doubt is the burden of proof
10:04:00 25 applied in a criminal case. It has no application

10:04:03 1 whatsoever in a civil case like this.

10:04:06 2 Clear and convincing evidence is not as high a
10:04:11 3 burden as beyond a reasonable doubt, but it is a higher
10:04:15 4 burden of proof than the preponderance of the evidence.

10:04:16 5 I give you these instructions in case some of the
10:04:22 6 lawyers on either side ask you as a part of this jury
10:04:25 7 selection process about your ability to apply both of those
10:04:30 8 burdens of proof, the preponderance of the evidence and
10:04:33 9 clear and convincing evidence, to the evidence and
10:04:36 10 testimony that you will hear in this trial.

10:04:38 11 Now, ladies and gentlemen, before the lawyers
10:04:42 12 address you, I'm going to ask each of you all to give me
10:04:47 13 the same information about yourselves that I gave you about
10:04:49 14 myself when I came out this morning.

10:04:53 15 You should see both on the screens in front of you
10:04:56 16 and you should have copies -- laminated copies there among
10:05:01 17 you -- nine specific questions. I'd like each of you to
10:05:06 18 answer those nine specific questions out loud for my
10:05:09 19 benefit and for everyone in the courtroom's benefit.

10:05:12 20 Let me explain to you how we're going to do this.
10:05:15 21 These two gentlemen are Court Security Officers. They'll
10:05:19 22 be in the gallery amongst you with two separate handheld
10:05:22 23 microphones. Those handheld microphones have been
10:05:26 24 disinfected and cleaned.

10:05:28 25 Whenever we start this process, we'll start

10:05:32 1 with -- we'll start with Panel Member No. 1, Mr. Sellers.

10:05:38 2 And when we do that, they will hand you a handheld
10:05:41 3 microphone, Mr. Sellers.

10:05:44 4 When you get that, I'm going to ask you to stand
10:05:46 5 up. I'm going to ask you to pull your mask down or take it
10:05:50 6 off so that everyone can see the entirety of your face and
10:05:53 7 then use that handheld microphone and answer the question.

10:05:55 8 Let me remind everybody. This is a big room with
10:05:59 9 a lot of people in it. And if you don't hold that
10:06:01 10 microphone close, I will not hear, the lawyers will not
10:06:05 11 hear, the Court staff will not hear your answers to these
10:06:09 12 questions. So be sure, take advantage of, and use that
10:06:12 13 handheld microphone.

10:06:12 14 Now, after you've finished answering those nine
10:06:16 15 questions, you should hand the microphone back to the Court
10:06:21 16 Security Officer, you should raise your mask, and you
10:06:23 17 should have a seat.

10:06:24 18 And we'll do that with everyone on the panel.
10:06:26 19 You'll stand, you'll be hand -- held -- handed, rather, a
10:06:30 20 handheld microphone. Take your mask off or lower it,
10:06:33 21 answer the questions, hand the microphone back, raise your
10:06:37 22 mask or put it back on, and have a seat.

10:06:39 23 And, ladies and gentlemen, after we get through
10:06:42 24 going through the entire panel with these nine questions,
10:06:45 25 later in the process, the lawyers are going to have an

10:06:49 1 opportunity to ask you individualized questions. And if at
10:06:54 2 that point in the process one of the lawyers should ask you
10:06:56 3 a specific question, you'll answer in the very same way.

10:06:59 4 You'll stand up, you'll wait until you get the
10:07:02 5 handheld microphone, don't start answering until we can
10:07:04 6 amplify your voice and everybody can hear it. Lower your
10:07:08 7 mask, use the handheld microphone, and answer the question,
10:07:11 8 hand the microphone back, raise your mask, and have a seat.

10:07:15 9 The reason we're using two handheld microphones is
10:07:20 10 after everyone -- after anyone uses one microphone, a clean
10:07:25 11 one will be used for the next person, and the first
10:07:28 12 microphone will be wiped down and disinfected again. That
10:07:31 13 way nobody is going to have held and used a handheld
10:07:36 14 microphone that hasn't been disinfected and cleaned
10:07:40 15 before -- or after anyone else has used it. And that's why
10:07:43 16 we're using both of them and both gentlemen -- both Court
10:07:46 17 Security Officers are out there among you.

10:07:47 18 So, with that, ladies and gentlemen, we'll start
10:07:49 19 with Mr. Sellers, Panel Member No. 1. We'll bring you a
10:07:54 20 handheld microphone, Mr. Sellers. And if you'll stand,
10:07:57 21 remove your mask, use the microphone, and answer those nine
10:08:00 22 questions for us, sir.

10:08:02 23 JUROR SELLERS: My name is Glen Sellers. And I
10:08:05 24 live in Harleton, Texas, about 15, 20 miles from here.
10:08:09 25 I've got two boys. And I retired, but I used to work for

10:08:18 1 Railserve over in Longview working on locomotives
10:08:23 2 electrically.

10:08:23 3 THE COURT: What was the name of the company, sir?

10:08:26 4 JUROR SELLERS: Railserve, Inc.

10:08:29 5 THE COURT: Thank you.

10:08:29 6 JUROR SELLERS: I worked there for 12 years, and
10:08:31 7 my educational background, I quit school in the 10th grade
10:08:33 8 but got a GED.

10:08:36 9 My wife's name is Sharon. She's retired. She
10:08:42 10 used to work for the forestry service.

10:08:45 11 And I've had small claims court and grand jury
10:08:50 12 duty.

10:08:50 13 THE COURT: Thank you very much, Mr. Sellers. If
10:08:53 14 you'll hand the microphone back to the Court Security
10:08:55 15 Officer, raise your mask, and have a seat, and we'll go to
10:08:58 16 Panel Member No. 2, Ms. Hirzel.

10:09:03 17 I hope I said that right.

10:09:05 18 JUROR HIRZEL: Yes, it's Hirzel.

10:09:08 19 I'm from Queen City. I have two children. Place
10:09:15 20 of employment, I am retired, but I have worked for retail
10:09:19 21 for 30 -- 36 years.

10:09:22 22 THE COURT: Any particular retailer, ma'am?

10:09:24 23 JUROR HIRZEL: Walmart.

10:09:25 24 THE COURT: Okay.

10:09:28 25 JUROR HIRZEL: Have a high school education.

10:09:31 1 My husband's name is John. And he's retired also
10:09:36 2 from the BOP. He retired as an associate warden.

10:09:42 3 THE COURT: BOP means Bureau of Prisons.

10:09:44 4 JUROR HIRZEL: Bureau of Prisons, sorry.

10:09:48 5 THE COURT: That's okay.

10:09:51 6 JUROR HIRZEL: And let's see, he worked there for
10:09:54 7 35 years.

10:09:54 8 THE COURT: Have you had any prior jury service?

10:09:56 9 JUROR HIRZEL: No.

10:09:57 10 THE COURT: Okay. Thank you very much, ma'am. If
10:09:59 11 you'll hand the microphone back, raise your mask, and have
10:10:02 12 a seat, and we'll go to Panel Member No. 3.

10:10:04 13 Mr. Preston.

10:10:05 14 JUROR PRESTON: Good morning.

10:10:09 15 THE COURT: Good morning.

10:10:11 16 JUROR PRESTON: My name is Larry Preston. I live
10:10:13 17 in Gilmer, Texas. I have two children. I work for MSC
10:10:19 18 Industrial Supply Company, outside sales. Have been there
10:10:24 19 25 years. I have a high school education.

10:10:28 20 My spouse's name is Kathy. Happily married 38
10:10:33 21 years. She is retired. She was an office manager. She
10:10:38 22 worked there for 11 years.

10:10:41 23 I have been called to jury before, but in both
10:10:45 24 cases, they were settled before we made it to the
10:10:48 25 courtroom.

10:10:48 1 THE COURT: And what kind of office did your wife
10:10:50 2 work in as an office manager?

10:10:53 3 JUROR PRESTON: She worked at an oil agency that
10:10:56 4 reported all the production numbers to the Railroad
10:10:59 5 Commission.

10:10:59 6 THE COURT: Thank you very much, sir.

10:11:01 7 JUROR PRESTON: Yes, sir. Thank you.

10:11:02 8 THE COURT: All right. Next is Panel Member
10:11:05 9 No. 44, Ms. Skinner.

10:11:06 10 JUROR SKINNER: My name is Jennifer Skinner. I
10:11:15 11 live in Marshall. I have three kids. I am the financial
10:11:19 12 secretary at Emmanuel Baptist Church, and I've done that
10:11:23 13 for two years. I was a high school graduate of Marshall.

10:11:28 14 My spouse's name is Jason, and he is an outside
10:11:32 15 salesman for Tech Line. He's done that for a year.

10:11:37 16 And I have no prior jury service.

10:11:39 17 THE COURT: Thank you, Ms. Skinner.

10:11:42 18 Next is Panel Member No. 5, Mr. Walker.

10:11:48 19 JUROR WALKER: My name is Eric Walker. I have two
10:11:53 20 children. I work at Republic Elite for eight years. I
10:12:02 21 have a high school education.

10:12:03 22 My spouse's name is Camellia Williams. She worked
10:12:08 23 for Jordan Home Health Service for 12 years.

10:12:11 24 And this is my first time.

10:12:14 25 THE COURT: Thank you, sir. If you'll have a

10:12:19 1 seat, put your mask back up.

10:12:20 2 Mr. Preston, I'm going to have to ask you to put
10:12:23 3 your mask back on.

10:12:24 4 And then we'll go to Panel Member No. 6,
10:12:27 5 Ms. Falls.

10:12:28 6 JUROR FALLS: My name is Lorie Falls. I live in
10:12:31 7 rural Jefferson. I have two grown children. I've been
10:12:35 8 married for 38 years. I'm unemployed right now. I've got
10:12:39 9 a GED.

10:12:41 10 My husband's name is William, and he works at
10:12:44 11 Texarkana Aluminum. I can't say that. And he's been there
10:12:48 12 for a year.

10:12:49 13 And I don't have any other experience.

10:12:52 14 THE COURT: Ma'am, what was your work experience
10:12:54 15 before you became --

10:12:56 16 JUROR FALLS: Walmart.

10:12:57 17 THE COURT: Okay.

10:12:58 18 JUROR FALLS: Walmart maintenance.

10:12:59 19 THE COURT: All right. Thank you. Please have a
10:13:02 20 seat.

10:13:03 21 That will bring us to Panel Member No. 7,
10:13:06 22 Ms. Titterington.

10:13:07 23 JUROR TITTERINGTON: Thank you, sir. And good job
10:13:09 24 on the pronunciation. Most people muddle that.

10:13:12 25 My name is Katherine Titterington. And I live in

10:13:16 1 Marshall, again, because I actually graduated from Marshall
10:13:19 2 High School and then moved away.

10:13:21 3 I have two living children, three deceased
10:13:25 4 children. I work at HCSC, which is a customer service call
10:13:31 5 center, and coming up on three years employment there. I
10:13:36 6 graduated from Marshall High School, and then I got a
10:13:39 7 liberal arts degree; two years at Panola College with an
10:13:44 8 Associate's of science and then two years at UT Austin for
10:13:47 9 the Bachelor of Arts in history with a minor in music.

10:13:52 10 I am divorced.

10:13:53 11 And I have no prior jury service.

10:13:55 12 THE COURT: All right. Thank you very much,
10:13:56 13 ma'am.

10:13:57 14 Next is Panel Member No. 8, Ms. Carpenter.

10:14:02 15 JUROR CARPENTER: Yes, my name is Brenda
10:14:06 16 Carpenter. I live in Pittsburg, Texas. I got one
10:14:09 17 daughter. I'm not working now, but I used to be a
10:14:12 18 housekeeping -- working at cleaning church. I worked there
10:14:18 19 probably about a year. High school. I finished -- I
10:14:23 20 didn't finish school. 11th grade.

10:14:26 21 My husband's name is Daniel Carpenter. And my
10:14:29 22 spouse, he works at Pilgrim's. He's a truck driver. He's
10:14:36 23 been there one year at the feed mill.

10:14:39 24 And I haven't served no jury duty.

10:14:44 25 THE COURT: No prior jury service.

10:14:46 1 JUROR CARPENTER: No.

10:14:47 2 THE COURT: Thank you, ma'am. If you'll have a
10:14:49 3 seat and replace your mask, we'll go on to Panel Member
10:14:53 4 No. 9.

10:14:53 5 JUROR HUX: Good morning.

10:14:53 6 THE COURT: Good morning.

10:14:55 7 JUROR HUX: I'm Felecia Hux and I'm from Gilmore,
10:15:00 8 Texas. I have two children, a boy and a girl. I'm
10:15:02 9 employed at Gilmer National Bank in mortgage lending, and
10:15:06 10 I've been there for 33 years. I have some college.

10:15:08 11 My spouse's name is Gary Gipson. He's employed by
10:15:13 12 CDRE, and he does commercial air-conditioning.

10:15:16 13 And I have actually served on jury duty in the
10:15:20 14 federal court about 20 years ago.

10:15:22 15 THE COURT: 20 years ago? Is that here in this
10:15:24 16 courtroom?

10:15:25 17 JUROR HUX: It was in this courtroom. It was a
10:15:28 18 civil case.

10:15:28 19 THE COURT: Do you remember what the case was
10:15:29 20 about?

10:15:30 21 JUROR HUX: It was a Workers' Comp.

10:15:31 22 THE COURT: Okay. Not a patent case.

10:15:32 23 JUROR HUX: It was not a patent case, correct.

10:15:34 24 THE COURT: Thank you, Ms. Hux.

10:15:35 25 All right. That will bring us to Panel Member

10:15:37 1 No. 10, Ms. Anderson.

10:15:40 2 JUROR ANDERSON: My name is Shani Anderson. I
10:15:44 3 live in Lone Star, Texas. I have three children. My place
10:15:48 4 of employment is Walmart. I've been there five months. I
10:15:51 5 have some college.

10:15:52 6 My spouse's name is Carl. He's employed at Worley
10:15:58 7 and he's an electrician, and he's been there 17 years.

10:16:01 8 And I have zero prior jury services.

10:16:04 9 THE COURT: Okay. Thank you, Ms. Anderson.

10:16:06 10 Next is Panel Member No. 11, Ms. Stewart.

10:16:09 11 JUROR STEWART: Hi, my name is Rose Stewart. I
10:16:13 12 live in Marshall, Texas. I have no children. Three dogs,
10:16:16 13 one cat. Employed at DFW Airport for 34 years.

10:16:23 14 THE COURT: What did you do at DFW Airport, ma'am?

10:16:28 15 JUROR STEWART: Passenger service, emergency
10:16:32 16 response, DART, TRE, a little bit of everything, moved
10:16:37 17 around a lot.

10:16:38 18 THE COURT: You're retired now?

10:16:39 19 JUROR STEWART: Yes.

10:16:40 20 THE COURT: Okay.

10:16:41 21 JUROR STEWART: Finished college, Bachelor's of
10:16:47 22 Science, social work and history.

10:16:49 23 THE COURT: And, ma'am, two things. Number one,
10:16:51 24 where did you go to college; and, number two, would you
10:16:53 25 hold the mic --

10:16:55 1 JUROR STEWART: Texas Woman's University.

10:16:57 2 THE COURT: Hold the microphone a little closer.

10:17:04 3 JUROR STEWART: Texas Woman's University.

10:17:04 4 THE COURT: Thank you.

10:17:04 5 JUROR STEWART: Spouse's name, Anthony. Worked at
10:17:05 6 Minyard's grocery store in Dallas. Truck driver for 35
10:17:11 7 years.

10:17:13 8 Prior jury service, yes, criminal court, Dallas.
10:17:20 9 And one case was dismissed. They came to terms. And one
10:17:25 10 was found guilty.

10:17:26 11 THE COURT: All right. Ever served in a jury in a
10:17:30 12 civil case?

10:17:31 13 JUROR STEWART: No.

10:17:32 14 THE COURT: Thank you very much, ma'am.

10:17:33 15 Next is Panel Member No. 12, Mr. Talton. If
10:17:49 16 you'll take your mask off, please, sir, or pull it down.
10:17:52 17 Thank you.

10:17:52 18 JUROR TALTON: My name is Ervin Talton. My home,
10:17:58 19 I live in Douglasville, Texas. I have two boys, both of
10:18:05 20 them truck drivers. And I work at Lone Star Steel for 30
10:18:11 21 years, and I was a heavy-duty operator on machinery.

10:18:16 22 THE COURT: Hold the microphone a little closer,
10:18:18 23 Mr. Talton.

10:18:21 24 JUROR TALTON: I worked at Lone Star Steel. I was
10:18:23 25 a heavy-duty operator for 30 years. And I finished in the

10:18:30 1 12th grade.

10:18:31 2 And my spouse's name is Diane Talton. She works
10:18:35 3 for Evergreen Presbyterian where she retrains "underminded"
10:18:43 4 peoples that go back to living on their own.

10:18:47 5 And I served on one jury. It was concerned a
10:18:55 6 death in a wreck.

10:18:55 7 THE COURT: Tell me what that jury involved?

10:18:57 8 JUROR TALTON: Involved a wreck -- a death and a
10:19:03 9 wreck.

10:19:03 10 THE COURT: A death and a wreck, thank you, sir.
10:19:05 11 And how long has your wife worked at her place of
10:19:09 12 employment?

10:19:10 13 JUROR TALTON: She worked 25 years.

10:19:11 14 THE COURT: Thank you very much, Mr. Talton. If
10:19:13 15 you'll have a seat, sir, pull your mask back up, we'll go
10:19:17 16 to Panel Member No. 13, Mr. Hoover.

10:19:20 17 JUROR HOOVER: My name is David Hoover. I live in
10:19:25 18 Harleton, Texas. I have two daughters and a son. I work
10:19:28 19 at East Texas Baptist University, and I teach history.
10:19:33 20 I've worked there for -- be 15 years in May. I graduated
10:19:38 21 from high school in Oklahoma. Went to Southeastern
10:19:43 22 Oklahoma State for my Bachelor's and Oklahoma State for my
10:19:45 23 Master's and for my Ph.D.

10:19:51 24 My wife's name is Jenny. She also works at ETBU,
10:19:56 25 also teaches history. She's worked there full time for six

10:20:00 1 years now, taught adjunct before that. And I've never
10:20:03 2 served on a jury.

10:20:04 3 THE COURT: All right. Thank you, Dr. Hoover.

10:20:06 4 Next is Panel Member No. 14, Ms. Russell.

10:20:12 5 JUROR RUSSELL: Okay. My name is Jill Russell. I
10:20:15 6 live in Marshall, Texas. I have two grown children. I'm
10:20:19 7 semi-retired. My previous employment was with Canterra
10:20:25 8 Resources as an oil and gas accountant. Was there over 25
10:20:30 9 years. I have a college degree from Stephen F. Austin with
10:20:35 10 graduate work at UT and at ETBU. I have a CPA certificate.

10:20:41 11 I am divorced.

10:20:43 12 I served on a jury once in the county of Harrison
10:20:47 13 County.

10:20:47 14 THE COURT: What kind of jury was that, ma'am? Do
10:20:50 15 you remember anything about the case?

10:20:52 16 JUROR RUSSELL: It had to do with a car wreck.

10:20:54 17 THE COURT: All right.

10:20:56 18 JUROR RUSSELL: And that's all I remember.

10:20:57 19 THE COURT: Thank you.

10:20:58 20 All right. Next is Mr. Storey, No. 15.

10:21:03 21 JUROR STOREY: My name is Richard Storey. I live
10:21:06 22 in Queen City, Texas. I have four children. Employee, I
10:21:10 23 work for Cooper Tire & Rubber Company. Been there 19
10:21:14 24 years. High school graduate.

10:21:19 25 My spouse's name, Charlotte Storey. She's a nurse

10:21:25 1 at the jail in Texarkana, state.

10:21:30 2 No prior jury.

10:21:32 3 THE COURT: All right, sir. Thank you.

10:21:37 4 All right. Next is Ms. Caraway, No. 16.

10:21:41 5 JUROR CARAWAY: Good morning. My name is Kimberly
10:21:43 6 Caraway. I have four children. Three in college. I
10:21:46 7 currently am self-employed. I'm a consultant, writer, and
10:21:50 8 publisher. I have worked in that position, per se, for
10:21:54 9 about three years.

10:21:55 10 I have a double major in writing and
10:22:01 11 communications from Sam Houston State University. I have
10:22:04 12 two Master's degrees in educational administration and
10:22:11 13 secondary education from Stephen F. Austin, and I also have
10:22:14 14 a doctorate in educational leadership from Stephen F.
10:22:19 15 Austin.

10:22:19 16 My husband's name is Rodney. And he has worked 16
10:22:23 17 years in the oil and gas industry in fracturing service.

10:22:26 18 And I have no prior jury experience. I've never
10:22:30 19 been picked.

10:22:31 20 THE COURT: All right. Thank you, Dr. Caraway.

10:22:33 21 Next is No. 17, Mr. Smigiel.

10:22:43 22 JUROR SMIGIEL: Smigiel, yes, sir.

10:22:43 23 THE COURT: Smigiel.

10:22:43 24 JUROR SMIGIEL: My name is William Smigiel. I've
10:22:46 25 got two boys. I'm from Gilmer, Texas. I work for Trinity

10:22:55 1 Rail. I'm a supervisor -- a production supervisor. I've
10:23:00 2 worked there for 23 years. I graduated high school, got
10:23:03 3 some college.

10:23:04 4 My wife's name is Lala. She's a nurse for
10:23:08 5 Christus Good -- Good Shepherd Home Health. And she's
10:23:14 6 worked there for a year.

10:23:15 7 Prior service -- prior jury service, I served on a
10:23:18 8 criminal case in Upshur County.

10:23:20 9 THE COURT: All right, sir. How long ago was
10:23:21 10 that?

10:23:23 11 JUROR SMIGIEL: That would probably be close to
10:23:25 12 about 10 years ago.

10:23:26 13 THE COURT: Thank you very much, sir.

10:23:27 14 Okay. Next is No. 18, Mr. Johnson.

10:23:31 15 JUROR DAVID JOHNSON: My name is David Johnson. I
10:23:35 16 live in Hallsville, Texas. I've been there for about four
10:23:40 17 years. And I have one child. My place of employment is DJ
10:23:47 18 Johnson Design & Build. I'm owner and president. We build
10:23:50 19 custom homes and offices. I've worked there for a little
10:23:54 20 over 20 years.

10:23:56 21 I have a college degree in industrial design.
10:24:00 22 Went to Kilgore and LeTourneau. And I have a certificate
10:24:06 23 in aviation for flight lessons. Not using it anymore.

10:24:09 24 My spouse's name is Jennifer. And she is my
10:24:12 25 business partner and CFO. She's been there for about 18

10:24:18 1 years.

10:24:18 2 And I have no prior service.

10:24:19 3 THE COURT: All right. Thank you, Mr. Johnson.

10:24:21 4 Next is No. 19, Ms. Conley.

10:24:30 5 JUROR CONLEY: I'm Danielle Conley. I live in

10:24:35 6 Longview. I've been there all my life. I have two

10:24:37 7 children. I work at School of Little Children in Longview.

10:24:40 8 I work in the nursery. How long? I've worked there for

10:24:43 9 about 13 years now. I have a high school diploma.

10:24:47 10 My husband's name is Michael. He works at Jet

10:24:50 11 Business Systems. He's a service technician, and he's been

10:24:54 12 there for about seven years.

10:24:55 13 And I have no prior jury service.

10:24:57 14 THE COURT: All right. Thank you, ma'am.

10:24:59 15 Next is No. 20, Mr. Gibson.

10:25:04 16 JUROR GIBSON: Good morning. I'm Ricky Gibson,

10:25:06 17 live in Gilmer, Texas. Got two children. I worked -- I'm

10:25:11 18 retired from Texas Eastman. Worked there for 28 years.

10:25:15 19 High school education.

10:25:16 20 I'm divorced. And I've been on -- served on two

10:25:19 21 juries -- two criminal cases, criminal assault.

10:25:22 22 THE COURT: Where were those, sir?

10:25:24 23 JUROR GIBSON: In Gilmer.

10:25:26 24 THE COURT: How long ago -- best guess?

10:25:28 25 JUROR GIBSON: Four and probably 10 years.

10:25:30 1 THE COURT: All right. Thank you, Mr. Gibson.

10:25:32 2 Mr. Gibson, do you have a mask, sir?

10:25:34 3 JUROR GIBSON: No, sir.

10:25:36 4 THE COURT: Well, we will get you one. You need
10:25:38 5 to wear one.

10:25:42 6 Can I get one of the Court Security Officers to
10:25:44 7 get a mask? You're doing that?

10:25:48 8 COURT SECURITY OFFICER: I just called for one,
10:25:50 9 Judge.

10:25:50 10 THE COURT: Okay. Good. If you'll take it to him
10:25:52 11 as soon as it gets here.

10:25:54 12 In the meantime, we'll go on with Panel Member
10:25:57 13 No. 21, Mr. Wentzell.

10:25:59 14 JUROR WENTZELL: My name is Robert Wentzell, and I
10:26:02 15 live in Longview, Texas. I have several grown children.
10:26:05 16 I'm retired and previously over-the-road truck driver, 20
10:26:10 17 years. I have a high school diploma and some college.

10:26:12 18 Spouse's name is Jeanne. She's retired also, was
10:26:14 19 an RN. She was there about 22, 23 years. And no prior
10:26:23 20 jury service.

10:26:24 21 THE COURT: All right, sir. Thank you.

10:26:25 22 Next is Panel Member No. 22, Ms. Howard.

10:26:33 23 JUROR HOWARD: My name is Kasey Howard. I live in
10:26:36 24 Hallsville, Texas. I have one child. I work at ABC Auto
10:26:41 25 Distribution in Longview. I've been there for eight

10:26:44 1 months.

10:26:46 2 I never been on a jury duty.

10:26:48 3 THE COURT: All right, ma'am. Thank you.

10:26:49 4 Just a minute. Let's make sure Mr. Gibson gets
10:27:00 5 that mask.

10:27:01 6 And, Mr. Preston, you're going to have to pull
10:27:03 7 that mask up and leave it up. It doesn't do any good
10:27:07 8 around your neck. These precautions are for everybody's
10:27:11 9 safety, and everybody's going to have to follow them.

10:27:15 10 All right. Next is No. 23, Mr. Donley.

10:27:15 11 JUROR DONLEY: My name is Noah Kyle Donley. I
10:27:19 12 live in Atlanta, Texas. I have one child on the way. My
10:27:23 13 place of employment is Graphic Packaging International.
10:27:25 14 I'm a process manager in power plant operations. I've
10:27:26 15 worked there for 10 years. I have a high school education
10:27:30 16 at Queen City High School.

10:27:32 17 I'm not married, but my significant other is
10:27:36 18 Lauren Bean. Her place of employment is Northeast Texas
10:27:41 19 Community Service in Linden, Texas. She's worked there for
10:27:45 20 years. She's a case manager.

10:27:47 21 And I have one prior jury service, and it was
10:27:49 22 grand jury in Linden, Texas, Cass County.

10:27:52 23 THE COURT: All right. Thank you, Mr. Donley.

10:27:54 24 Next is No. 24, Mr. Jones.

10:27:57 25 JUROR JONES: Samuel Jones. I live here in

10:28:01 1 Marshall, Texas. I have four kids. I work for Trendsetter
10:28:05 2 Construction, been there five years.

10:28:06 3 My wife's name Arnetta. She works for the State
10:28:10 4 of Texas as a CPS officer. She's been there two years.

10:28:13 5 And no prior jury service.

10:28:14 6 THE COURT: All right, Mr. Jones. Thank you.

10:28:19 7 Next is No. 25, Mr. Davis.

10:28:22 8 JUROR DAVIS: Good morning.

10:28:22 9 THE COURT: Good morning.

10:28:23 10 JUROR DAVIS: My name is Larry Davis. I live in
10:28:26 11 Gladewater, Texas. I have two kids. Currently work for
10:28:29 12 East Texas Machine Works where I'm a customer account
10:28:33 13 manager. I've been there right at two years now. I
10:28:35 14 graduated from Longview High School. And I do have some
10:28:38 15 college courses from Kilgore College, also.

10:28:40 16 My spouse's name is Lynn Davis. She is retired.
10:28:43 17 She was a Gladewater Independent School teacher, worked
10:28:47 18 there for 45 years.

10:28:50 19 I did serve on a jury service in Gregg County
10:28:52 20 probably about 25 years ago on a criminal case.

10:28:55 21 THE COURT: In state court?

10:28:58 22 JUROR DAVIS: Yes, sir.

10:28:59 23 THE COURT: Thank you, sir.

10:29:01 24 All right. Next is No. 26, Mr. Hill.

10:29:04 25 MR. HILL: My name is Phillip Hill. I live just

10:29:09 1 outside of Atlanta, Texas. I have no children. I'm a
10:29:12 2 shift leader and a lead operator at a biofuel plant in
10:29:16 3 Hooks, Texas, alternative fuel placement. Been there a
10:29:18 4 little over two years. I graduated from Queen City High
10:29:21 5 School.

10:29:22 6 Spouse's name is Brittany. She's a kitchen staff
10:29:25 7 at a nursing home called Golden Villa in Atlanta. She's
10:29:32 8 been there probably about eight years.

10:29:33 9 And I attended jury selection for a domestic
10:29:36 10 violence case in Linden, Texas, about two years ago, but I
10:29:39 11 was not selected for the jury.

10:29:40 12 THE COURT: All right. Thank you, Mr. Hill.

10:29:42 13 Next is No. 27, Ms. Johnson.

10:29:45 14 JUROR DONNA JOHNSON: My name is Donna Johnson. I
10:30:00 15 have two children, one living, one deceased. I work for
10:30:03 16 Edward Jones Investments in Gilmer. I've worked there for
10:30:09 17 19 years. I have an Associate degree from Kilgore College
10:30:19 18 in business administration.

10:30:21 19 My husband's name is Paul Johnson, and we've been
10:30:23 20 married for 34 years. He works for ETEX Telephone Company,
10:30:30 21 and he is a fiber optics specialist. He's worked there for
10:30:36 22 22 years.

10:30:37 23 I have been called for jury duty three times, but
10:30:44 24 I've never been picked for a jury.

10:30:46 25 THE COURT: And do you live in Gilmer, ma'am?

10:30:49 1 JUROR DONNA JOHNSON: Yes, I live in Gilmer. I'm
10:30:51 2 sorry.

10:30:51 3 THE COURT: That's all right. Thank you very
10:30:53 4 much.

10:30:53 5 All right. Next is Panel Member No. 28,
10:30:59 6 Ms. Rosenbalm.

10:31:00 7 JUROR ROSENBALM: Good morning. My name is Tina
10:31:03 8 Rosenbalm. I live in Gilmer. I have two adult children.
10:31:09 9 I have several jobs. First, I work as coordinator of
10:31:14 10 competitive events at the East Texas State Fair in Tyler.
10:31:19 11 I also have rental property that me and my husband manage.
10:31:24 12 And I also grow cut flowers and sell to florists. So I
10:31:29 13 wanted you to hear that, Judge.

10:31:36 14 Let's see, I've worked at the East Texas State
10:31:40 15 Fair for three years, and we've had rental property for
10:31:46 16 probably 17 years. I graduated from Tarleton State
10:31:54 17 University with a degree in agriculture education. And I
10:31:59 18 did used to teach agriculture in the high school level.

10:32:03 19 My spouse's name is Edwin Rosenbalm, and he owns
10:32:08 20 Benchmark Foundation Repair, and has owned that business
10:32:12 21 for 28 years.

10:32:17 22 And I've never served on a jury before.

10:32:20 23 THE COURT: Thank you, Ms. Rosenbalm.

10:32:22 24 Next is No. 29, Ms. Hawkins.

10:32:27 25 JUROR HAWKINS: My name is Dara Hawkins, and I

10:32:30 1 live in Mt. Pleasant, Texas. I have one child. And I'm
10:32:34 2 currently unemployed, but I did work for an online gifting
10:32:38 3 company called Gift Services. I worked there for about two
10:32:42 4 years. I have a high school diploma and some college.

10:32:48 5 My spouse's name is Isaiah, and he works for Union
10:32:53 6 Pacific Railroad. He's worked there for about three years.
10:32:56 7 And I have no prior jury service.

10:32:57 8 THE COURT: All right. Thank you very much.

10:32:59 9 Next is Panel Member No. 30, Mr. Endsley.

10:33:05 10 JUROR ENDSLEY: My name is Roger Endsley. I live
10:33:13 11 in a little place called Bivens, Texas, which is south of
10:33:17 12 Atlanta. I have two adult children. And I'm currently
10:33:24 13 working as a transport officer for the Bowie County
10:33:31 14 Sheriff's Office.

10:33:31 15 And I'm also retired from the Federal Bureau of
10:33:36 16 Prisons in Texarkana for 31 years. I have a high school
10:33:39 17 education and some college.

10:33:41 18 My spouse's name is Diane, and she works for the
10:33:45 19 First National Bank of Hughes Springs as a loan processor,
10:33:50 20 and she's worked there about 28 years. And I've never been
10:33:55 21 picked for any jury service.

10:33:57 22 THE COURT: All right. Thank you, Mr. Endsley.

10:33:59 23 Next is Panel Member No. 31, Ms. Butler.

10:34:06 24 JUROR BUTLER: My name is Reba Butler, and I live
10:34:09 25 in Linden, Texas. I have two sons. And I work for Elara

10:34:17 1 Caring. It's a skilled home health agency, and I'm a
10:34:20 2 clinical team manager.

10:34:22 3 THE COURT: What's the name of it again, ma'am?

10:34:26 4 JUROR BUTLER: Elara Caring.

10:34:26 5 THE COURT: Okay.

10:34:29 6 JUROR BUTLER: And I've been there nine years, and
10:34:30 7 have a degree in applied science, certification as a
10:34:33 8 registered nurse.

10:34:36 9 My husband is Kelly Butler, and he works for
10:34:40 10 Windstream Communications, and he's been there for 10
10:34:44 11 years.

10:34:44 12 And no prior jury service.

10:34:46 13 THE COURT: Thank you, Ms. Butler.

10:34:47 14 Next is Panel Member No. 32, Ms. Kirkpatrick.

10:34:52 15 JUROR KIRKPATRICK: My name is Debora Kirkpatrick.
10:34:55 16 I live in Pittsburg, Texas. I have four children, two --
10:34:58 17 two of them are stepkids and two birth kids. I work at
10:35:02 18 Cardiovascular Associates in Tyler. I've worked there 26
10:35:08 19 years. I have a business education, Tyler School of
10:35:11 20 Business.

10:35:11 21 My spouse's name is Donny Kirkpatrick. He works
10:35:15 22 at Eastex Trucking Company, and he's worked there 30-plus
10:35:20 23 years.

10:35:21 24 And I've had one jury service for age
10:35:23 25 discrimination when I was young.

10:35:25 1 THE COURT: Where was that, ma'am?

10:35:27 2 JUROR KIRKPATRICK: Henderson, Texas.

10:35:29 3 THE COURT: And tell me what you do at

10:35:31 4 Cardiovascular Associates.

10:35:33 5 JUROR HOWARD: I am the support supervisor over

10:35:36 6 the front office.

10:35:39 7 THE COURT: All right. Thank you very much.

10:35:40 8 Next is No. 33, Mr. Moses.

10:35:46 9 JUROR MOSES: My name is Rocky Moses. I have six

10:35:50 10 kids, four of my own, two adopted. I work in Texarkana at

10:35:53 11 Jack Yates Drywall. Got a GED.

10:35:57 12 My wife's name is Jenice. She's a stay-at-home

10:36:02 13 mom.

10:36:02 14 And no jury.

10:36:03 15 THE COURT: What's the name of your employment,

10:36:06 16 sir?

10:36:06 17 JUROR MOSES: Jack Yates Drywall.

10:36:10 18 THE COURT: Thank you very much, Mr. Moses.

10:36:12 19 All right. Next is No. 34, Ms. Whitehead.

10:36:13 20 JUROR WHITEHEAD: My name is Amy Whitehead. I

10:36:17 21 have one adult daughter. I work at Jucy Taco here in

10:36:20 22 Marshall, Texas. I graduated from Marshall. Been here all

10:36:24 23 my life.

10:36:24 24 I'm recently separated.

10:36:26 25 And I have no jury experience.

10:36:28 1 THE COURT: All right. Thank you.

10:36:29 2 No. 35 is next, Mr. Spearman.

10:36:29 3 JUROR SPEARMAN: My name is --

10:36:39 4 THE COURT: Will you take --

10:36:39 5 JUROR SPEARMAN: -- Charles Spearman.

10:36:39 6 THE COURT: Will you take that mask down, please,

10:36:41 7 Mr. Spearman? Thank you.

10:36:43 8 JUROR SPEARMAN: I'm sorry.

10:36:44 9 THE COURT: That's all right.

10:36:45 10 JUROR SPEARMAN: My name is Charles Spearman. I

10:36:49 11 have no children, and my place of employment is at Elara

10:36:54 12 Caring where I work there as a home health attendant. I've

10:36:58 13 worked there for five years, and I graduated from DeVry

10:37:03 14 University with a Bachelor's degree in business

10:37:05 15 administration.

10:37:08 16 And I have no spouse.

10:37:09 17 And I did have prior jury service in Marion County

10:37:13 18 back in October of 2018. It was a child protective --

10:37:17 19 protection case.

10:37:20 20 THE COURT: Did you serve on the jury?

10:37:21 21 JUROR SPEARMAN: Yes, I did.

10:37:22 22 THE COURT: All right. Is your place of employer

10:37:25 23 the same place Ms. Butler mentioned earlier?

10:37:29 24 JUROR SPEARMAN: Yes, sir.

10:37:29 25 THE COURT: Do you know Ms. Butler?

10:37:31 1 JUROR SPEARMAN: No, sir.

10:37:32 2 THE COURT: Okay. Thank you very much, sir.

10:37:33 3 JUROR SPEARMAN: You're welcome.

10:37:34 4 THE COURT: If you'll put your mask back on and
10:37:38 5 have a seat, we'll go next to Mr. Robertson.

10:37:42 6 JUROR ROBERTSON: All right. Yes, I'm Richard
10:37:43 7 Robertson, and I'm from Marshall, Texas. I got five kids.
10:37:48 8 And I worked at Harrison County Road & Bridge for about
10:37:53 9 three years. And let's see, I finished Marshall High
10:38:02 10 School at 12th grade.

10:38:03 11 And my spouse is LaTonya, and she work at the
10:38:07 12 nursing home here off of Washington. She's been there
10:38:11 13 about 20 years.

10:38:14 14 And I served a jury, but before we got started,
10:38:17 15 they canceled it.

10:38:20 16 THE COURT: Where was that, sir?

10:38:23 17 JUROR ROBERTSON: Here in Marshall.

10:38:24 18 THE COURT: What do you do at road and bridge
10:38:28 19 department?

10:38:28 20 JUROR ROBERTSON: Drive trucks and backhoe.

10:38:30 21 THE COURT: Thank you very much, Mr. Robertson.

10:38:32 22 Next is Panel Member No. 37, Ms. Lange.

10:38:35 23 JUROR LANGE: Karen Lange, and I live in Gilmer.
10:38:39 24 I have two boys. I work for Caldwell Banker Real Estate
10:38:46 25 for 10 years. Graduated from Gilmer High School.

10:38:50 1 My husband is Larry, and he works for CNC Oilfield
10:38:58 2 for two years.

10:38:59 3 And no prior jury.

10:39:01 4 THE COURT: Thank you, Ms. Lange.

10:39:03 5 Next is No. 38, Ms. Hitt.

10:39:05 6 JUROR HITT: My name is Cynthia Hitt. I go by
10:39:09 7 Cindy. I've recently moved to Hallsville. Prior to that
10:39:13 8 for 18 years, I was outside of Gilmer. I was also born in
10:39:17 9 Florida, but I got to Texas before you did. I have no
10:39:19 10 biological kids.

10:39:21 11 I work for Texas Department of Public Safety.
10:39:24 12 I'll be there 21 years next month. Education, high school
10:39:27 13 and specialty training primarily in police communications,
10:39:34 14 driver's license, and DOT compliance.

10:39:36 15 I'm recently divorced.

10:39:38 16 And I have been called three times but never
10:39:40 17 served on a jury.

10:39:41 18 THE COURT: All right. Thank you very much,
10:39:43 19 ma'am.

10:39:43 20 Next is No. 39, Ms. Scott.

10:39:47 21 JUROR SCOTT: Good morning. My name is Misty
10:39:49 22 Scott. I have lived in Marshall for 14 years. I am the
10:39:53 23 executive director at Mission Marshall, and I've been there
10:39:56 24 about eight and a half years. I have a Bachelor's degree
10:40:00 25 from East Texas Baptist University.

10:40:04 1 My husband is Glenn. He works at East Texas
10:40:09 2 Baptist University as a system specialist in the IT
10:40:11 3 department. He has worked there for 14 years, and I have
10:40:15 4 never served before on a jury.

10:40:16 5 THE COURT: Ms. Scott, I know what Mission
10:40:19 6 Marshall is, but tell everybody else what Mission Marshall
10:40:22 7 is.

10:40:23 8 JUROR SCOTT: We're a non-profit serving Harrison
10:40:26 9 and Marion Counties that operate the local food pantry, as
10:40:28 10 well as do a lot of support services for early childhood
10:40:36 11 literacy in our community and some adult education for job
10:40:37 12 enrichment and financial literacy.

10:40:40 13 THE COURT: Thank you.

10:40:41 14 All right. Next is Panel Member No. 40, Ms. Pope.

10:40:45 15 JUROR POPE: Hi, my name is Rebecca Pope, and I
10:40:49 16 live in Big Sandy, Texas. I have one adult child. I work
10:40:52 17 for GE Steam Power for 18 years. I was acquired. I
10:40:56 18 recently worked for Alstom, and GE bought them out, like I
10:41:01 19 said, for 18 years. I have a high school diploma and some
10:41:06 20 college.

10:41:06 21 My spouse's name is Arthur Pope. He works for
10:41:06 22 Universal Pressure Company out in Midland, Texas, right
10:41:11 23 now. He's been there approximately 10 years.

10:41:13 24 And I have been called several times for jury
10:41:16 25 service, but I've never served.

10:41:18 1 THE COURT: Thank you very much, ma'am.

10:41:19 2 Thank you, ladies and gentlemen.

10:41:27 3 Now, I need to say a couple more things to you
10:41:31 4 before I turn the questioning over to the lawyers.

10:41:33 5 The jurors that are selected to serve in this case
10:41:38 6 will serve in the role as the judges of the facts, and the
10:41:43 7 jury selected in this case will make the sole determination
10:41:46 8 about what the facts are in this case.

10:41:50 9 My job as the Judge is to rule on questions of
10:41:53 10 law, evidence, and procedure that arise during the trial,
10:41:56 11 to oversee the efficient flow of the evidence, and to
10:41:59 12 maintain the decorum of the courtroom.

10:42:03 13 Also, I want to say a couple things to you about
10:42:06 14 our judicial system that I hope will put things in a proper
10:42:09 15 perspective for you.

10:42:11 16 In every jury trial, besides the parties
10:42:14 17 themselves, there are always three participants, the jury,
10:42:19 18 the judge, and the lawyers.

10:42:21 19 With regard to the lawyers, ladies and gentlemen,
10:42:23 20 I think it's important for you to understand that our
10:42:26 21 judicial system is based on an adversary system, which
10:42:31 22 simply means that during the course of the trial, each of
10:42:34 23 the parties will seek to present their respective cases to
10:42:38 24 the jury in the very best light possible.

10:42:41 25 Now, it's no surprise to any of you that lawyers

10:42:44 1 are often criticized in the media and in the press, but the
10:42:49 2 Court's recognized that, at least to some extent, that's
10:42:54 3 the result of a misunderstanding about our adversary system
10:42:57 4 of justice in which the lawyers act as competing advocates
10:43:03 5 for the parties.

10:43:04 6 As an advocate, a lawyer is ethically and legally
10:43:09 7 obligated to zealously assert his or her client's position
10:43:15 8 under the rules of our adversary system. And by presenting
10:43:18 9 the best case possible under the rules of our system and on
10:43:21 10 behalf of their clients, the lawyers hopefully will enable
10:43:25 11 the jury to better weigh the relevant evidence, to
10:43:28 12 determine the truth, and arrive at a just verdict based on
10:43:33 13 that evidence.

10:43:33 14 This system of justice, this adversary system of
10:43:37 15 justice has served our nation well for over 200 years, and
10:43:41 16 America's lawyers have always been and will continue to be
10:43:44 17 a part -- an integral part of that process.

10:43:47 18 So as we go forward with the trial in this case,
10:43:51 19 even though I might occasionally roll my eyes or frown or
10:43:56 20 even growl a little bit at the lawyers from time to time,
10:44:00 21 it's simply because I'm trying to make sure that their
10:44:03 22 advocacy doesn't get outside the boundaries of our
10:44:07 23 adversary system.

10:44:08 24 But please keep in mind, they are simply doing
10:44:11 25 their jobs in zealously asserting -- asserting their

10:44:14 1 client's position, and it's important for all of you to
10:44:17 2 understand that as we go forward.

10:44:19 3 Also, ladies and gentlemen, throughout the course
10:44:23 4 of this trial, if you're selected on this jury, I want you
10:44:28 5 to know that I am going to do my very best throughout the
10:44:31 6 trial to make sure that nobody on the jury has any idea
10:44:35 7 about what I think about the evidence, because determining
10:44:40 8 the facts in this case based on the evidence is the jury's
10:44:42 9 job. It is not my job. And those of you that are selected
10:44:46 10 to serve on this jury should not take any expressions or
10:44:50 11 comments that you see or hear as coming from me as
10:44:54 12 something for you to consider in determining what the
10:44:57 13 ultimate facts are in this case.

10:44:58 14 But I'm going to do my very best so that you don't
10:45:04 15 have any idea about what I think about the evidence,
10:45:07 16 because, as I say, as the judges of the facts, the jury
10:45:12 17 will decide what the facts are in this case.

10:45:13 18 All right. At this time, counsel for the
10:45:18 19 competing parties are going to address the panel.

10:45:22 20 Mr. Ward, you may address the panel on behalf of
10:45:24 21 the Plaintiff. Would you like a warning on your time?

10:45:27 22 MR. WARD: Yes, sir. Could I have a five-minute
10:45:30 23 warning?

10:45:30 24 THE COURT: I'll warn you when you've used 25
10:45:33 25 minutes.

10:45:34 1 MR. WARD: Thank you.

10:45:35 2 THE COURT: You may proceed.

10:45:35 3 MR. WARD: May it please the Court.

10:45:50 4 Good morning again. My name is Johnny Ward. I
10:45:56 5 live over in Longview, Texas. I've lived there for about
10:46:00 6 30 years. I practiced law -- I've been practicing law for
10:46:05 7 26 years. I've been out in my own firm for about 20 of
10:46:09 8 those years.

10:46:10 9 I graduated from Longview High School, went to
10:46:12 10 undergrad at Oklahoma, and then law school at Texas Tech
10:46:16 11 down in Lubbock.

10:46:17 12 My wife is a school teacher. We have three
10:46:22 13 children, two in college, one on his way to college. So
10:46:25 14 we're about to be empty nesters, getting close.

10:46:33 15 She's taught off and on for about four years.
10:46:36 16 She's not teaching right now.

10:46:37 17 And I've had no prior jury service.

10:46:39 18 So now you all know as much about me as I know
10:46:41 19 about y'all. Although you did fill out jury
10:46:45 20 questionnaires, and those were very helpful, and I'm going
10:46:47 21 to ask some questions and that enables us to find things
10:46:51 22 out in addition to what you've already told us.

10:46:53 23 Before I get into questioning, I'm going to give
10:46:55 24 you a real high level about what Solas, my client, that I
10:46:58 25 represent, along with Mr. Fenster and his firm, tell you

10:47:05 1 what this case is about.

10:47:06 2 Three United States patents. Has anyone ever seen
10:47:10 3 a patent before on the jury panel? I hadn't either until
10:47:13 4 about 16 years ago when I was in the courtroom and I saw my
10:47:18 5 first patent, and I've been looking at them ever since.

10:47:21 6 These three patents, there's one called the '311.
10:47:24 7 As you learned on the video, the patents are referred to by
10:47:27 8 their last three digits, and you'll get used to those
10:47:28 9 numbers, those of you that make it on the panel.

10:47:29 10 The '311 deals with touch sensor panels, and we
10:47:34 11 contend that the invention in the '311 is what enables
10:47:37 12 Samsung to make these big panels that we all like. They
10:47:42 13 get bigger and larger and wrap around the edges.

10:47:45 14 The other two patents, the '450 and the '338, deal
10:47:49 15 with something called AMOLED, active-matrix organic
10:47:57 16 light-emitting diode. Mouthful. Those that make it on the
10:47:57 17 panel will find out about it.

10:47:58 18 Basically, those patents enable Samsung to make
10:48:01 19 their screens brighter, the colors brighter, the darks
10:48:05 20 darker, the batteries last longer, and the screens last
10:48:09 21 longer.

10:48:10 22 Now, they don't agree with that, and we don't
10:48:12 23 claim to have invented these panels, but -- the screens, we
10:48:17 24 just claim that our inventions have made them better.

10:48:20 25 Now, they dispute all that. They say they don't

10:48:24 1 trespass on these patents. They say that two of the
10:48:26 2 patents are invalid. And there's a big dispute over
10:48:31 3 damages. Because we say they owe over \$88 million for
10:48:37 4 using this property without permission, and they say if
10:48:39 5 they owe anything, it's no more than \$1.6 million, which
10:48:44 6 turns out to be what Solas actually purchased these patents
10:48:47 7 for.

10:48:48 8 And I'll talk to you about Solas's business some
10:48:50 9 in a minute.

10:48:51 10 But at a very high level, that's what the dispute
10:48:53 11 is about, and I'm not going to talk to you about any of the
10:48:56 12 evidence, because what I want to do is find out about you
10:48:58 13 all.

10:48:58 14 When you came to court, I assume that you all
10:49:05 15 wanted to be fair. Does everyone want to be fair? Nobody
10:49:08 16 wanted to be unfair, surely. Anybody want to be unfair?
10:49:13 17 When they said I'm going to go to federal court, I'm going
10:49:16 18 to sit on a jury, I'm going really to stick it to somebody.
10:49:16 19 Nobody sitting out there to deliberate right now, right?

10:49:21 20 However, can you all agree that we all have
10:49:22 21 different life experiences, and our life experiences affect
10:49:25 22 us in different ways? And I'll give you an example.

10:49:28 23 Let's say I got called to jury service and I found
10:49:31 24 out that it was a case against a teacher. Well, my wife's
10:49:36 25 been involved in teaching for her whole life, works with

10:49:40 1 Longview High School. I wouldn't be a good juror. I think
10:49:43 2 I would start out leaning in favor of the teacher.

10:49:47 3 Leaning is okay. What's not okay is if you lean
10:49:51 4 to such an extent that you couldn't set that aside and
10:49:55 5 decide the case based upon the merits of the case.

10:49:59 6 So that's what we're trying to find out. Do you
10:50:02 7 lean one way or the other? And if you lean, tell us. And
10:50:05 8 let's find out if it's something you can set aside, or will
10:50:10 9 it affect your ability to be a fair juror in this case?
10:50:12 10 Doesn't mean you're not a fair person. Just means you
10:50:15 11 might not be the right juror for this case.

10:50:17 12 So let me start out by asking if anybody knows
10:50:22 13 Ms. Melissa Smith. She's an attorney. She practices here
10:50:24 14 in Marshall. She lives in Tyler. Does anybody know
10:50:28 15 Ms. Smith?

10:50:29 16 Anyone know her law partner, Gil Gillam, law firm
10:50:32 17 of Gillam & Smith?

10:50:34 18 Anybody know -- and when I say "know," I'm using
10:50:38 19 the broadest sense of the word; "know" means I recognize --
10:50:42 20 I recognize the name of the firm, anything like that?

10:50:45 21 Yes, ma'am?

10:50:48 22 JUROR TITTERINGTON: Can I ask a question?

10:50:50 23 MR. WARD: Ms. Titterington, you've got to wait on
10:50:52 24 the microphone, but, yes, you can certainly ask a question.

10:50:53 25 THE COURT: If you'll stand up --

10:50:53 1 JUROR TITTERINGTON: Can I ask a question?

10:50:55 2 MR. WARD: Certainly.

10:50:56 3 JUROR TITTERINGTON: Has Ms. Smith ever practiced
10:50:59 4 family law?

10:51:00 5 MR. WARD: I don't know if she's practiced family
10:51:01 6 law. I'll let you ask her -- ask her that question when
10:51:05 7 she's up here asking questions.

10:51:05 8 JUROR TITTERINGTON: Okay.

10:51:06 9 MR. WARD: But do you recognize her --

10:51:09 10 JUROR TITTERINGTON: It's just the only time I've
10:51:10 11 ever been to court was with my divorce, and that was about
10:51:13 12 10 years ago. And I did use a lawyer from Longview, so I
10:51:16 13 don't really remember who I used, but she looked slightly
10:51:19 14 familiar when she walked into the room, but I used a female
10:51:23 15 lawyer.

10:51:24 16 MR. WARD: So I bet it was not Mrs. Smith.

10:51:27 17 JUROR TITTERINGTON: Probably not, but just in
10:51:28 18 case.

10:51:29 19 MR. WARD: Okay. I appreciate you. That's what I
10:51:29 20 want to know. If you think you might know somebody, then
10:51:32 21 let me know and let's find out.

10:51:34 22 So my question is: Does anybody think they know
10:51:37 23 the law firm of Gillam & Smith, or been exposed to anybody
10:51:40 24 at that firm, have a relative or friend that worked there?
10:51:42 25 And if you do, just raise your hand.

10:51:44 1 The other law firm and lawyer that I think you'll
10:51:46 2 hear a lot from at Samsung is Mr. Bob Haslam. He's with
10:51:50 3 the law firm of Covington & Burling. They've got offices
10:51:54 4 all over the country. So I can't go through all those
10:51:57 5 lawyers.

10:51:57 6 But thank you, Mr. Haslam.

10:51:59 7 What I need to know is if anyone knows or has a
10:52:03 8 relative that works for the law firm of Covington &
10:52:07 9 Burling? I know it's a long shot, but I've got to ask.
10:52:10 10 Nobody?

10:52:11 11 Let me ask this question. I want to talk to some
10:52:26 12 of you individually, and if many of you raise your hand, I
10:52:30 13 want to talk to you. Several of you indicated that you had
10:52:32 14 prior jury service. Anyone that's had prior jury service,
10:52:37 15 were you the foreperson of the jury, whether it was a
10:52:40 16 criminal case or a civil case? Anybody? If you were the
10:52:43 17 foreperson, raise your hand.

10:52:45 18 Okay. Let me ask some individual questions. I'm
10:52:48 19 going to start right up here upfront dealing with
10:52:56 20 Ms. Hirzel, Juror No. 2. You indicated that you had worked
10:52:59 21 for Walmart, I think, for 36 years?

10:53:02 22 JUROR HIRZEL: 36.

10:53:03 23 MR. WARD: And you retired from Walmart?

10:53:05 24 JUROR HIRZEL: I retired.

10:53:06 25 MR. WARD: They were a good employer to you?

10:53:07 1 JUROR HIRZEL: They were excellent to me.

10:53:10 2 MR. WARD: And what did you do while you were at
10:53:11 3 Walmart?

10:53:13 4 JUROR HIRZEL: I was a department manager for all
10:53:15 5 36 years.

10:53:16 6 MR. WARD: You started as a department manager?

10:53:16 7 JUROR HIRZEL: Yes, and just stayed there.

10:53:17 8 MR. WARD: Okay. And was that locally?

10:53:17 9 JUROR HIRZEL: No.

10:53:18 10 MR. WARD: Okay. Where were you located?

10:53:20 11 JUROR HIRZEL: All over.

10:53:21 12 MR. WARD: All over.

10:53:22 13 JUROR HIRZEL: I started in El Paso. That's where
10:53:25 14 I'm originally from. But with my husband's job, for him to
10:53:30 15 climb the ladder, we moved to Arizona, Michigan, Austin,
10:53:32 16 Texarkana.

10:53:32 17 MR. WARD: Moved all over?

10:53:33 18 JUROR HIRZEL: All over.

10:53:34 19 MR. WARD: All right. Thank you, ma'am.

10:53:35 20 And then right next to you, I have to let them
10:53:39 21 give him a microphone, Mr. Preston.

10:53:42 22 I'll start my question -- oh, you've got a
10:53:44 23 microphone already. You indicated you worked at MSC
10:53:46 24 Outside Sales, and I'm not familiar with MSC. Tell me what
10:53:50 25 type of sales you were doing.

10:53:52 1 JUROR PRESTON: It is industrial supplies,
10:53:54 2 everything from hydraulic systems to nuts and bolts. We
10:53:59 3 carry a little over a million items, all related to the
10:54:03 4 industrial world.

10:54:04 5 MR. WARD: And do you travel a lot?

10:54:06 6 JUROR PRESTON: All in northeast Texas, no
10:54:08 7 overnight.

10:54:09 8 MR. WARD: Okay. You do any work for Samsung?

10:54:12 9 JUROR PRESTON: I do not.

10:54:13 10 MR. WARD: Okay. Anything about your job that
10:54:15 11 causes you to lean toward Samsung before we get started?

10:54:18 12 JUROR PRESTON: No. But if you don't mind me
10:54:20 13 being direct and quite honest, I don't know how impartial I
10:54:27 14 can be toward Samsung. And the reason that I say that is
10:54:31 15 because I built a home 10 years ago. I furnished it with
10:54:37 16 Samsung appliances, all high rated. And, conveniently,
10:54:41 17 they all went out on me right after the warranty went out.
10:54:45 18 I have replaced every piece of Samsung in my house. And to
10:54:50 19 be quite frank with you, if they sold rocks, I would not
10:54:53 20 buy one.

10:54:53 21 MR. WARD: All right. Well, we're -- we're very
10:54:57 22 clear on where you stand. And I appreciate you. You're
10:55:00 23 not in trouble at all.

10:55:02 24 And that's a perfect example of what I talked
10:55:04 25 about, right? You could be a fair person for maybe another

10:55:08 1 jury, but it sounds like you might not be the right juror
10:55:12 2 for Samsung. Fair enough?

10:55:14 3 JUROR PRESTON: Right.

10:55:14 4 MR. WARD: All right. And that's all we want to
10:55:16 5 find out. There are no wrong answers. Mr. Preston is not
10:55:19 6 in trouble. He'd be in trouble if he sat there and he
10:55:22 7 didn't disclose that information, okay? So that's what we
10:55:25 8 want to find out. Thank you, sir.

10:55:26 9 Going right on across to Ms. Skinner.

10:55:29 10 Ms. Skinner, I bet you knew I wanted to talk to
10:55:33 11 you.

10:55:33 12 JUROR SKINNER: Yes.

10:55:33 13 MR. WARD: On your questionnaire, you told us
10:55:35 14 about that your husband had filed for, I think, patents
10:55:38 15 related to remote control lights on a hog feeder?

10:55:43 16 JUROR SKINNER: That's correct.

10:55:44 17 MR. WARD: I own a remote control light on a hog
10:55:48 18 feeder. I don't know, did he get a patent?

10:55:50 19 JUROR SKINNER: He did not.

10:55:50 20 MR. WARD: Okay.

10:55:51 21 JUROR SKINNER: They got an attorney in Austin.
10:55:53 22 It was several years back and forth, and they ended up not
10:55:56 23 getting it, I believe, because a piece of their prototype
10:56:01 24 had a patent on it already, and they were not able to get
10:56:07 25 it.

10:56:08 1 MR. WARD: Now, anything about that experience
10:56:09 2 with the Patent and Trademark Office that starts you
10:56:13 3 leaning one way or another before you hear evidence in this
10:56:15 4 case?

10:56:16 5 JUROR SKINNER: No. That was him and his buddies,
10:56:18 6 and I didn't really have much to do with it.

10:56:21 7 MR. WARD: It was -- your deal, you saw the checks
10:56:23 8 going to the lawyer in Austin?

10:56:25 9 JUROR SKINNER: Exactly.

10:56:26 10 MR. WARD: And when it was over, you said: Good,
10:56:29 11 it's over?

10:56:30 12 JUROR SKINNER: Yes.

10:56:31 13 MR. WARD: Thank you, ma'am.

10:56:33 14 Ms. Walker, right next, No. 5. You said you work
10:56:37 15 at Republic Elite. Is that the cabinet manufacturer?

10:56:42 16 JUROR WALKER: Yes.

10:56:42 17 MR. WARD: And what do you do for Republic?

10:56:45 18 JUROR WALKER: I'm a team lead.

10:56:46 19 MR. WARD: Okay. All right. Thank you.

10:56:47 20 Right next to you, Juror No. 6, Ms. Falls. I
10:56:51 21 think you indicated you worked at Walmart in maintenance?

10:56:54 22 JUROR FALLS: Yes, in Mt. Pleasant.

10:56:56 23 MR. WARD: And how long did you work in
10:56:58 24 maintenance at Walmart?

10:57:00 25 JUROR FALLS: Four years.

10:57:01 1 MR. WARD: Four years? All right. Anything about
10:57:03 2 that that causes you to lean one way or the other in
10:57:05 3 this --

10:57:05 4 JUROR FALLS: Other than I didn't get along with
10:57:09 5 some of my management.

10:57:10 6 MR. WARD: I kind of picked up on that, that maybe
10:57:13 7 it was not the best departure. But anything about that,
10:57:18 8 not getting along with management, that causes you to lean
10:57:18 9 one way or the other?

10:57:21 10 JUROR FALLS: No, sir.

10:57:21 11 MR. WARD: All right. Thank you, ma'am.

10:57:21 12 THE COURT: Let me interrupt for just a minute. I
10:57:22 13 think for everybody's benefit, I'm going to ask everybody
10:57:25 14 to do two things. Continue to hold that microphone close
10:57:29 15 so that we can hear you clearly. It's going to be more and
10:57:32 16 more important as we work toward the back of the room.

10:57:35 17 And, also, ladies and gentlemen, please wait for
10:57:37 18 the question to be finished before you start your answer.

10:57:39 19 All right. Please continue, Mr. Ward.

10:57:42 20 MR. WARD: All right. Thank you, Your Honor.

10:57:44 21 Juror No. 11, Ms. Stewart.

10:57:47 22 JUROR STEWART: Yes.

10:57:47 23 MR. WARD: You indicated you've been at -- you
10:57:50 24 said you have been at DFW Airport working there for 34
10:57:56 25 years.

10:57:56 1 JUROR STEWART: Yes.

10:57:57 2 MR. WARD: Doing a little bit of everything?

10:57:59 3 JUROR STEWART: Yes.

10:57:59 4 MR. WARD: Are you originally from East Texas and
10:58:01 5 you moved to the Metroplex?

10:58:03 6 JUROR STEWART: Yes.

10:58:04 7 MR. WARD: And then you came home?

10:58:05 8 JUROR STEWART: Yes.

10:58:06 9 MR. WARD: All right. Well, welcome back.

10:58:08 10 JUROR STEWART: Thank you.

10:58:09 11 MR. WARD: And how long have you been back?

10:58:11 12 JUROR STEWART: 13 years.

10:58:12 13 MR. WARD: Okay. And you're retired?

10:58:14 14 JUROR STEWART: Something like that.

10:58:16 15 MR. WARD: I'm sorry. And I just spoke over you,
10:58:18 16 and I'm sorry.

10:58:19 17 JUROR STEWART: Sorry. I think it's something
10:58:20 18 like that. I came -- I retired in '09.

10:58:22 19 MR. WARD: Okay. And have you been working any
10:58:24 20 locally since you retired?

10:58:25 21 JUROR STEWART: No.

10:58:26 22 MR. WARD: Enjoying the retired life?

10:58:29 23 JUROR STEWART: Are you kidding? I'm sorry.

10:58:30 24 MR. WARD: No problem. Anything that causes you
10:58:33 25 to lean one way or the other in this case?

10:58:36 1 JUROR STEWART: No. But I have all of those
10:58:38 2 Samsung appliances, too.

10:58:39 3 MR. WARD: Okay. Well, and you know what, it
10:58:42 4 might be that you love Samsung so much that you can see
10:58:45 5 them doing no wrong --

10:58:45 6 JUROR STEWART: Oh, they break, and I still buy
10:58:47 7 them.

10:58:47 8 MR. WARD: Okay. Fair enough.

10:58:48 9 Juror No. 14, Ms. Russell. Ms. Russell, you
10:58:57 10 indicated that -- and I was taking notes down as fast as I
10:59:00 11 could -- an oil and gas company?

10:59:03 12 JUROR RUSSELL: Yes, sir.

10:59:04 13 MR. WARD: Is that locally?

10:59:05 14 JUROR RUSSELL: Yes.

10:59:05 15 MR. WARD: And you're an accountant for them.

10:59:08 16 JUROR RUSSELL: I'm retired now.

10:59:10 17 MR. WARD: You're retired.

10:59:11 18 JUROR RUSSELL: Well, self-employed, retired part
10:59:12 19 time.

10:59:13 20 MR. WARD: What are you doing part time?

10:59:16 21 JUROR RUSSELL: Keeping books, doing accounting.

10:59:18 22 MR. WARD: And what was the name of the company
10:59:20 23 where you were working before you retired?

10:59:23 24 JUROR RUSSELL: Camterra Resources.

10:59:25 25 MR. WARD: And where are they located?

10:59:27 1 JUROR RUSSELL: In Marshall.

10:59:28 2 MR. WARD: In Marshall. Okay. I didn't pick up
10:59:29 3 on that, so thank you, ma'am.

10:59:31 4 Juror No. 16, Dr. Caraway. And you're one of
10:59:39 5 those folks who speaks pretty quick, and I was scribbling
10:59:44 6 down as fast as I could. We got questionnaires from
10:59:47 7 everybody and some we got this morning, and I didn't get to
10:59:49 8 get all the notes of what y'all told us. So I apologize if
10:59:52 9 you told us.

10:59:53 10 JUROR CARAWAY: That's all right.

10:59:54 11 MR. WARD: You said you worked as a consultant in
10:59:56 12 writing and there were a number of things --

10:59:57 13 JUROR CARAWAY: Publishing.

10:59:58 14 MR. WARD: Writing and publishing. And what area
11:00:00 15 are you writing and publishing in? Is it multiple areas?

11:00:04 16 JUROR CARAWAY: It's typically Christian
11:00:06 17 self-help, non-fiction.

11:00:07 18 MR. WARD: Okay. And how long you have been doing
11:00:09 19 that?

11:00:10 20 JUROR CARAWAY: Three years.

11:00:10 21 MR. WARD: Enjoying it?

11:00:12 22 JUROR CARAWAY: Yes.

11:00:13 23 MR. WARD: All right. All right. Thank you.

11:00:14 24 And then Juror No. 18, Mr. Johnson. You're a
11:00:20 25 homebuilder, custom houses and offices now?

11:00:24 1 JUROR DAVID JOHNSON: Yes, sir.

11:00:26 2 MR. WARD: And on your questionnaire, I think you
11:00:28 3 indicated that your uncle has a patent on some method
11:00:30 4 relating to nuclear waste.

11:00:33 5 JUROR DAVID JOHNSON: Well, my late uncle had a
11:00:35 6 patent. We don't know anything about it because it was
11:00:39 7 under government protection. So we just knew it was under
11:00:43 8 nuclear waste of somehow refining nuclear waste into
11:00:47 9 something non-dangerous. I don't know. That's about all I
11:00:51 10 know. I've never seen a patent number or anything like
11:00:53 11 that, and he's deceased.

11:00:55 12 MR. WARD: All right. Anything about that that
11:00:56 13 causes you to lean one way or another?

11:00:58 14 JUROR DAVID JOHNSON: No, I was in high school
11:01:00 15 when I found out about that, and it was kind of a cool
11:01:03 16 thing my uncle did.

11:01:04 17 MR. WARD: You said that you have a pilot's
11:01:07 18 license. You were in aeronautical science, but you hadn't
11:01:10 19 used it for a long time.

11:01:10 20 JUROR DAVID JOHNSON: Yeah, last time I flew is
11:01:14 21 when I worked for Panel Truss. I was their company pilot
11:01:18 22 and designer. That's been about 20 years ago.

11:01:18 23 MR. WARD: I was going to ask you about that
11:01:19 24 because you and I have something in common. You might know
11:01:23 25 him, Bo Powers is one of my very best friends.

11:01:25 1 JUROR DAVID JOHNSON: Yes, I know Bo Powers.

11:01:27 2 MR. WARD: You know Bo Powers well, don't you?

11:01:29 3 JUROR DAVID JOHNSON: I was flying one time when
11:01:32 4 the engine went out.

11:01:33 5 MR. WARD: You were flying one time when he was
11:01:35 6 asleep next to you and the engine sputtered.

11:01:35 7 JUROR DAVID JOHNSON: That's right.

11:01:37 8 MR. WARD: And you all had to do an emergency
11:01:37 9 landing.

11:01:37 10 JUROR DAVID JOHNSON: That's right. We did.

11:01:37 11 MR. WARD: Now, some people might not be happy
11:01:39 12 that you saved him, but I am.

11:01:42 13 JUROR DAVID JOHNSON: We both are. We were both
11:01:44 14 in the plane, so...

11:01:45 15 MR. WARD: All right. Thank you, Mr. Johnson.

11:01:47 16 JUROR DAVID JOHNSON: Yes, sir.

11:01:47 17 MR. WARD: All right. Let's talk about lawsuits.

11:01:55 18 A number of you -- I'll say Mr. Davis, Juror
11:02:00 19 No. 25, you don't need to answer this question. You were a
11:02:03 20 Defendant in a lawsuit. If you were, just raise your hand.
11:02:06 21 All right.

11:02:07 22 Is there anybody else on the panel that was
11:02:09 23 ever -- has ever been or currently a Defendant in a
11:02:11 24 lawsuit?

11:02:14 25 Anybody? Let's see, Ms. Stewart, looked like you

11:02:20 1 were -- give me the sem -- eye. Let's -- Juror No. 11.

11:02:24 2 Have you been a Defendant in a lawsuit?

11:02:27 3 JUROR STEWART: It depends. A department store
11:02:31 4 sued me for an unpaid bill that wasn't mine.

11:02:34 5 MR. WARD: Okay. Anything about that that affects
11:02:38 6 your ability to start out equal in this case?

11:02:40 7 JUROR STEWART: No.

11:02:41 8 MR. WARD: Okay. Thank you.

11:02:42 9 Anybody else?

11:02:46 10 Anybody whose employer has been a Defendant in a
11:02:50 11 lawsuit where you were called upon to offer evidence or
11:02:53 12 give a deposition, anything like that?

11:02:56 13 Yes, sir, Mr. Smigiel, Juror No. 17?

11:03:02 14 JUROR SMIGIEL: I'm a supervisor over at -- where
11:03:04 15 I work, and I had a couple of unemployment cases that I had
11:03:12 16 worked on.

11:03:12 17 MR. WARD: That you had to testify for the
11:03:13 18 company?

11:03:14 19 JUROR SMIGIEL: Yes, sir.

11:03:15 20 MR. WARD: Anything about that experience that
11:03:17 21 causes you to lean one way or the other in this patent
11:03:20 22 case?

11:03:21 23 JUROR SMIGIEL: No, no.

11:03:21 24 MR. WARD: All right. We start out -- both sides
11:03:23 25 start out equal here.

11:03:24 1 JUROR SMIGIEL: Yes.

11:03:25 2 MR. WARD: All right. Thank you, sir.

11:03:27 3 Now, a number of you -- we asked a question on the
11:03:35 4 questionnaire about what do you think about lawsuits. And
11:03:37 5 there were a number of you that said: I feel like there's
11:03:40 6 too many lawsuits.

11:03:40 7 I'm going to go through the folks that I know. If
11:03:42 8 I skip you, I'm going to go from left to right, go back
11:03:45 9 about four rows. If I skip you, please -- please tell me.

11:03:48 10 Let's start with Ms. Hirzel, Juror No. 2.

11:03:54 11 I think you indicated on your questionnaire that
11:03:57 12 you thought there were too many lawsuits.

11:03:59 13 JUROR HIRZEL: I do.

11:04:00 14 MR. WARD: Okay. And tell me where -- why you
11:04:03 15 feel that way.

11:04:04 16 JUROR HIRZEL: The reason I answered it that way
11:04:06 17 is because working in retail -- I've worked in retail a
11:04:10 18 total of 41 years, 36 with Walmart. And, you know, it's --
11:04:14 19 when you've been with a company that long and the money
11:04:19 20 that that company has made, of course, everybody wants a
11:04:22 21 little bit of it. So, you know, I've seen customers where
11:04:26 22 something would just fall on their foot, well, I'm going to
11:04:29 23 sue, you know. And going there every day, you got tired of
11:04:33 24 hearing people say that.

11:04:34 25 MR. WARD: Slip and falls?

11:04:36 1 JUROR HIRZEL: Yes.

11:04:36 2 MR. WARD: Trip and falls?

11:04:38 3 JUROR HIRZEL: And my husband worked with a
11:04:40 4 gentleman that sued Walmart. A can fell on his foot. You
11:04:43 5 know, and I was just like, really? They happen all the
11:04:47 6 time, you know. And just like with grapes on the floor,
11:04:50 7 you've got to, you know, be mindful and watch -- watch
11:04:53 8 where you're walking when you're in the produce department.
11:04:56 9 And, you know, if you see something, pick it up. But a lot
11:04:58 10 of people look at it like, what am I going to get out of
11:05:01 11 this?

11:05:01 12 MR. WARD: And I understand that. And that's why
11:05:03 13 I want to ask you, because I know you've been at Walmart,
11:05:05 14 and you've seen a lot, and folks do go up to Walmart.

11:05:09 15 JUROR HIRZEL: Right.

11:05:10 16 MR. WARD: And here's my concern for Solas. Solas
11:05:13 17 obviously had to bring this lawsuit. They say Samsung is
11:05:16 18 trespassing. Do you start out leaning in favor of Samsung
11:05:19 19 because you relate to Walmart, having been a Defendant,
11:05:23 20 having seen and have to defend themselves, or do we start
11:05:27 21 out equal?

11:05:28 22 JUROR HIRZEL: I would say equal.

11:05:29 23 MR. WARD: Okay.

11:05:30 24 JUROR HIRZEL: Because, you know, I look at it
11:05:32 25 like really two different things --

11:05:33 1 MR. WARD: Okay.

11:05:34 2 JUROR HIRZEL: -- is how I look at it.

11:05:35 3 MR. WARD: And I agree with you, but some folks
11:05:38 4 say, you know what, I've seen too much, and I can't do it.
11:05:43 5 But I appreciate you saying we're going to start out on the
11:05:46 6 same level playing field.

11:05:48 7 JUROR HIRZEL: Exactly.

11:05:49 8 MR. WARD: Right next to you, Mr. Preston, I saw
11:05:52 9 you nodding your head while she was talking. Do you
11:05:54 10 feel some -- do you have some of the same opinions that
11:05:57 11 Ms. Hirzel has about lawsuits?

11:06:00 12 JUROR PRESTON: I do. We're not allowed to have
11:06:03 13 accidents in this country anymore. Someone is always to
11:06:07 14 blame.

11:06:07 15 MR. WARD: In this case, well, you told me about
11:06:10 16 Samsung. We might not start out equal here, so let me go
11:06:14 17 on.

11:06:14 18 Ms. Skinner, Juror No. 4, I think you said on your
11:06:18 19 questionnaire that there were too many lawsuits. You heard
11:06:20 20 my questions to Ms. Hirzel. Do you share some of her
11:06:26 21 opinions?

11:06:27 22 JUROR SKINNER: Exactly. I just think -- and like
11:06:31 23 Mr. Preston said, you're not allowed to have an accident or
11:06:34 24 anything anymore. Somebody's always at fault for something
11:06:38 25 that happened to you, and they're going to -- somebody is

11:06:41 1 going to pay for it.

11:06:42 2 MR. WARD: All right. So that's my question. Do
11:06:44 3 you feel that way about Solas? Because Solas is a
11:06:46 4 Plaintiff in this case, they brought this lawsuit saying
11:06:49 5 Samsung is trespassing. Do you start out leaning in favor
11:06:53 6 of Samsung before you've heard any evidence?

11:06:55 7 JUROR SKINNER: No.

11:06:55 8 MR. WARD: We start out on a level playing field?

11:06:59 9 JUROR SKINNER: Absolutely.

11:06:59 10 MR. WARD: All right. Ms. Falls, you worked at
11:07:02 11 Walmart, too. So I'm going to ask you the same question.
11:07:06 12 You probably saw a number of lawsuits or heard about
11:07:09 13 lawsuits. Do we start --

11:07:11 14 JUROR FALLS: Yes.

11:07:12 15 MR. WARD: Is that correct?

11:07:13 16 JUROR FALLS: Yes.

11:07:13 17 MR. WARD: Do we start out equal, or do you start
11:07:16 18 out leaning in favor of the Defendant because of what
11:07:18 19 happened while you were at Walmart?

11:07:20 20 JUROR FALLS: Definitely equal.

11:07:21 21 MR. WARD: All right. Thank you, ma'am.

11:07:26 22 Ms. Hux, Juror No. 9, same question to you. I
11:07:32 23 think you indicated there are too many lawsuits.

11:07:33 24 JUROR HUX: I agree with what everyone else said.

11:07:35 25 And I worked at a bank for 33 years, and we just have to do

11:07:39 1 so much more documentation of everything than what we used
11:07:42 2 to because of the other financial institutions that have
11:07:47 3 been sued.

11:07:47 4 MR. WARD: All right. You've heard my questions.
11:07:48 5 Do we start out behind Samsung before you've heard any
11:07:52 6 evidence, or are we going to get to start out equal?

11:07:55 7 JUROR HUX: Absolutely equal.

11:07:57 8 MR. WARD: All right. Thank you, ma'am.

11:07:59 9 And I don't know of anyone else that turned in a
11:08:04 10 jury questionnaire on the second row that indicated there
11:08:08 11 are too many lawsuits. If you did, would you raise your
11:08:11 12 hand?

11:08:11 13 All right. Then I'll go to the third row.

11:08:14 14 Dr. Caraway, I think you had the same answer, that
11:08:16 15 you felt like there were too many lawsuits?

11:08:19 16 JUROR CARAWAY: I do, but it's based on the
11:08:22 17 premise that it's a slip and fall.

11:08:25 18 MR. WARD: All right. This is obviously a
11:08:26 19 property dispute.

11:08:28 20 JUROR CARAWAY: Right.

11:08:28 21 MR. WARD: Do we start out equal or we start
11:08:31 22 out --

11:08:31 23 JUROR CARAWAY: An intellectual property situation
11:08:33 24 is completely different.

11:08:33 25 MR. WARD: All right. Thank you, ma'am.

11:08:34 1 Let me shift gears a little bit and talk to you
11:08:48 2 about Solas.

11:08:48 3 Solas is in the business -- and Mr. Padian, he'll
11:08:52 4 tell you about this. He's going to be our first witness.
11:08:55 5 He'll tell you about his practice, his business, and how he
11:08:59 6 got into the business of purchasing patents, licensing
11:09:01 7 those patents, and licensing -- licensing those patents,
11:09:05 8 includes sometimes filing lawsuits and taking folks to
11:09:11 9 Court, like Samsung.

11:09:12 10 So purchasing, licensing, and enforcing. You want
11:09:17 11 to remember three things about Solas, that's what they do.

11:09:21 12 Here's my question: Some of you might say,
11:09:24 13 Mr. Ward, that might be perfectly legal, and what
11:09:27 14 Mr. Padian has chosen to do, but just based on what you've
11:09:31 15 told me, I'm leaning away from Solas. I'm leaning in favor
11:09:35 16 of Samsung.

11:09:35 17 Anybody on the first row have that feeling? If
11:09:39 18 you do, I want you to raise your hand. No wrong answers.
11:09:43 19 Just like Mr. Preston told us about his feelings about
11:09:47 20 Samsung, this is your chance to tell me about your feelings
11:09:49 21 about Solas if you have any.

11:09:50 22 Second row? And let's start with
11:09:55 23 Ms. Titterington, all the way, Carpenter, Hux, Anderson,
11:09:57 24 Stewart, anybody feel that way?

11:09:59 25 All right. Third row, Ms. Russell's row, anybody

11:10:05 1 feel that way?

11:10:06 2 Does anybody on the panel work for a business that
11:10:12 3 has been sued for patent infringement?

11:10:23 4 Dr. Caraway, you indicated -- No. 16, you
11:10:26 5 indicated that you owned a number of Samsung products.
11:10:29 6 They make some good products, and they make some that are
11:10:32 7 not so good. But have you had a good experience with their
11:10:36 8 products?

11:10:39 9 JUROR CARAWAY: I have had a good experience with
11:10:42 10 Samsung products.

11:10:42 11 MR. WARD: All right. And so my question to you
11:10:44 12 is -- I know you have a number of Samsung products -- do
11:10:47 13 you start out leaning in favor of Samsung before you hear
11:10:50 14 any evidence because you like their products?

11:10:52 15 JUROR CARAWAY: No, no.

11:10:53 16 MR. WARD: All right. I know a number of you have
11:10:56 17 Samsung products. Does anyone feel differently than
11:10:59 18 Dr. Caraway and that you start out leaning in favor of
11:11:01 19 Samsung because you have their products and you like their
11:11:01 20 products?

11:11:02 21 THE COURT: You have five minutes remaining,
11:11:04 22 Mr. Ward.

11:11:05 23 MR. WARD: Anybody on the panel own a Samsung --
11:11:11 24 Samsung stock? Anybody have stock in Samsung?

11:11:28 25 The evidence in this case will be that Solas paid

11:11:32 1 under \$2 million for these patents. I told you they seek
11:11:35 2 to recover \$88 million from just Samsung. And the
11:11:40 3 patents -- there were a number of them. They were over 700
11:11:44 4 that they purchased. This lawsuit is about three of them.

11:11:47 5 Without hearing any other evidence, is there
11:11:48 6 anyone sitting there going, you know what, if you only paid
11:11:52 7 less than \$2 million for these patents, a family of
11:11:56 8 patents, I could never consider an award of more than you
11:12:00 9 paid for them, I could never consider an award of tens of
11:12:04 10 millions of dollars?

11:12:05 11 Anyone in the first three rows that feels that
11:12:09 12 way?

11:12:09 13 At the end of this case, His Honor is going to
11:12:15 14 instruct you on damages, and I want to find out if you can
11:12:17 15 follow this law relating to damages if you answer that
11:12:20 16 question.

11:12:20 17 Upon a finding of infringement, the Court, could
11:12:25 18 be the jury rendering a verdict, shall award the claimant
11:12:29 19 damages adequate to compensate for the infringement, but in
11:12:32 20 no event less than a reasonable royalty for the use made of
11:12:35 21 the invention -- for the use made of the invention.

11:12:41 22 Is there anybody on the panel who feels like they
11:12:43 23 can't follow that law?

11:12:45 24 Ms. Russell, let me ask you. You worked in oil
11:12:49 25 and gas for a number of years. Let me get -- they're going

11:12:52 1 to bring you a microphone. Juror No. 14.

11:12:55 2 Did you do a lot of accounting for mineral
11:13:00 3 interest holders where you have to keep track of what
11:13:03 4 interests they had and what property?

11:13:04 5 JUROR RUSSELL: Yes.

11:13:05 6 MR. WARD: How are -- how are royalties paid on
11:13:11 7 oil? Is it on -- per barrel?

11:13:14 8 JUROR RUSSELL: On the gross amount of sales, yes.

11:13:17 9 MR. WARD: Okay. And is there -- however many
11:13:22 10 barrels are produced, if it's a million, if it's 10
11:13:25 11 million, there's a percent, depending upon what the
11:13:28 12 contract says, that's applied to each one of those barrels
11:13:30 13 of oil, and the landowner gets their percentage, correct?

11:13:34 14 JUROR RUSSELL: Yes.

11:13:34 15 MR. WARD: And how long were you in the oil and
11:13:37 16 gas business?

11:13:38 17 JUROR RUSSELL: 30 years.

11:13:39 18 MR. WARD: All right. In your 30 years in the oil
11:13:41 19 and gas business, did you ever see either your employer or
11:13:47 20 another oil and gas company say, well, we understand we owe
11:13:52 21 you for maybe a million barrels of oil, but we're only
11:13:55 22 going to pay you for how much you spent to purchase your
11:13:58 23 mineral acres? Did you ever see that happen?

11:14:01 24 JUROR RUSSELL: No.

11:14:01 25 MR. WARD: The oil and gas company had to pay for

11:14:06 1 how much oil they used, correct?

11:14:09 2 JUROR RUSSELL: Yes.

11:14:10 3 MR. WARD: Thank you.

11:14:11 4 I've had to flip through my notes. Y'all gave us
11:14:18 5 a lot of information. I'd like to sit up here and I'd talk
11:14:21 6 to every one of you, but I don't have time to do that.
11:14:23 7 You're going to see throughout this trial, His Honor is
11:14:25 8 going to keep us on the clock, and that's why you all get
11:14:28 9 out of here. We've done a lot of work. We do a lot of
11:14:32 10 work every night to run this trial smoothly.

11:14:35 11 So here's my last question to you: Is there
11:14:37 12 anyone sitting there right now that says, if Mr. Ward had
11:14:40 13 only asked me this question, he's hopped around a lot, if
11:14:44 14 he had only asked me one of the questions he asked somebody
11:14:48 15 else or if he asked the right question, he would know that
11:14:53 16 I'm leaning in favor of Samsung before we get started? Is
11:14:56 17 there anyone sitting there right now -- and if you want to
11:14:58 18 talk privately, we can do it privately, or we can talk
11:14:59 19 right now -- but is there anyone sitting there right now
11:15:01 20 who feels that way? If you do, just raise your hand.

11:15:07 21 All right. No hands raised.

11:15:09 22 For those eight of you that are selected for this
11:15:12 23 jury, we look forward to presenting this case. We waited
11:15:15 24 awhile to do it. We're looking forward to presenting our
11:15:19 25 evidence, and I thank you for your time.

11:15:28 1 THE COURT: Ms. Smith, you may address the panel
11:15:30 2 on behalf of the Defendants.

11:15:34 3 Would you like a warning on your time?

11:15:37 4 MS. SMITH: Your Honor, I'd like five minutes,
11:15:40 5 please.

11:15:40 6 THE COURT: All right. I will warn you when you
11:15:41 7 have five minutes remaining. You may proceed when you're
11:15:44 8 ready.

11:15:44 9 MS. SMITH: Thank you, Your Honor.

11:15:45 10 Good morning, everybody. In the way of a
11:15:59 11 reintroduction, my name is Melissa Smith. And I, along
11:16:03 12 with my co-counsel and frankly, my friends and most
11:16:08 13 importantly, my -- my mentor, as well, I'm joined by
11:16:12 14 Mr. Bob Haslam, and we represent Samsung.

11:16:14 15 I'm going to start where Mr. Ward left off, and
11:16:18 16 that's doing the most important thing I'll do all day, and
11:16:21 17 that's to thank you. We've been preparing, as Mr. Ward
11:16:25 18 said, for a long time for this case. And I guess about a
11:16:30 19 week and a half ago, we were preparing in the snow. And
11:16:33 20 then last night, we were getting ready to -- to finally get
11:16:37 21 to the courthouse, and we had this awesome power outage and
11:16:41 22 rainstorm.

11:16:42 23 So on behalf of Samsung, I can tell you, I know
11:16:45 24 it's not easy to get here. I know it means time away from
11:16:49 25 your work, from your friends, and from your family, but on

11:16:52 1 behalf of Samsung, we appreciate you showing up. So thank
11:16:55 2 you.

11:16:55 3 Now, I'm going to answer the same questions as
11:17:01 4 Judge answered about himself and Mr. Ward answered, as
11:17:04 5 well. I went to the University of Texas at Austin
11:17:07 6 undergrad.

11:17:08 7 So, Ms. Titterington, you don't know me from
11:17:11 8 there, but I share that with you.

11:17:14 9 And as well as I share my Baylor Law School degree
11:17:17 10 with the Court. I also went to Baylor Law School.

11:17:21 11 That was about 24 years ago. About a week after I
11:17:25 12 graduated from Baylor, I moved down the road to Jefferson,
11:17:30 13 Texas. I started practicing here on the Marshall
11:17:33 14 Courthouse Square.

11:17:33 15 My now partner Gil Gillam, who Mr. Ward mentioned,
11:17:37 16 was my first boss. And after about eight years, he made me
11:17:41 17 his partner. Some of you probably drove by our old yellow
11:17:41 18 house. It sits right behind the courthouse. It's called
11:17:44 19 Gillam & Smith. So we've been together for each of my 24
11:17:47 20 years of practice.

11:17:47 21 Personally, I am married. We have two children.
11:17:50 22 We have a nine-year-old boy, and a seven-year-old little
11:17:54 23 girl. So when I'm not working hard at the law, I spend
11:17:59 24 just about every minute I can with those two.

11:18:01 25 Now, it's an easy task -- it's an easy task to

11:18:07 1 introduce the Samsung family of companies. I mean, they
11:18:09 2 got started back in the tech business doing computers when
11:18:12 3 none of us were thinking about computers.

11:18:15 4 And the first cell phone that Samsung actually
11:18:18 5 released was back in 1988. And I know I for one didn't
11:18:21 6 have a cell phone back in 1988.

11:18:24 7 Today, you know, Samsung's releasing phones every
11:18:27 8 year, or even more often. And across the three companies
11:18:31 9 that if you're lucky enough to serve on this jury you'll
11:18:35 10 hear about, Samsung employs tens of thousands of inventors.

11:18:40 11 Now, all day every day Samsung is inventing, it's
11:18:44 12 making products. It's figuring out what customers want,
11:18:48 13 not just right now, but it's figuring out what customers
11:18:50 14 want next. And so inventing is what Samsung does.

11:18:55 15 The employees that actually are behind the
11:18:58 16 inventions in this case are going to come a long distance,
11:19:02 17 and they're the employees that, you know, manufactured and
11:19:06 18 came up with the idea for the specific accused devices that
11:19:10 19 we're here to talk about. And they're going to tell you
11:19:12 20 exactly how those screens came to be.

11:19:15 21 Now, as Mr. Ward did, I'm going to tell you, real
11:19:23 22 briefly, what you're going to hear on the Samsung side of
11:19:27 23 this case and something I already touched on first.

11:19:30 24 Samsung uses new and cutting-edge technology to
11:19:34 25 keep up with how quickly technology is advancing and to

11:19:39 1 remain competitive.

11:19:41 2 Two, what you're going to hear is Samsung does
11:19:45 3 things differently, and they do things differently to be
11:19:49 4 successful.

11:19:51 5 And, most importantly, number three, and
11:19:54 6 Judge Gilstrap hinted at this when he was visiting with
11:19:57 7 you, Samsung's position is that it does not use -- it
11:20:01 8 absolutely does not use the patents that these folks bought
11:20:05 9 and are now using to sue us.

11:20:08 10 Now, Mr. Ward introduced himself and his team. He
11:20:18 11 practices over in Longview, Texas, at a firm called Ward
11:20:23 12 Smith & Hill. He practices with his dad, also by the same
11:20:28 13 name, John Ward. A pretty long list of lawyers over there.
11:20:32 14 Let's see, Claire Henry, Andrea Fair, Chad Everingham, Wes
11:20:38 15 Hill, Brett Miller, and Bruce Smith.

11:20:41 16 Is anybody familiar with any of the lawyers over
11:20:43 17 at Ward Smith & Hill in Longview?

11:20:46 18 I don't see any hands.

11:20:48 19 He's joined by some other lawyers who he
11:20:51 20 introduced from a law firm called Russ August & Kabat, and
11:20:56 21 that's a law firm out of Los Angeles, California. Does
11:20:59 22 anyone -- I don't think you'll be familiar with that firm,
11:21:03 23 but is anyone familiar with the Russ August & Kabat firm
11:21:05 24 out of Los Angeles, California?

11:21:08 25 I don't see any hands.

11:21:09 1 Now, as Mr. Ward kind of hinted at, Solas doesn't
11:21:13 2 make any products, they don't manufacture anything. So I
11:21:16 3 don't think you would have heard about them. But has
11:21:19 4 anybody, before coming to the courthouse today, heard of a
11:21:21 5 company called Solas? I see a lot of heads nodding no.
11:21:26 6 Thank you.

11:21:26 7 Solas -- and the patents that Mr. Ward held up,
11:21:31 8 again, those aren't -- those aren't Solas's inventions.
11:21:34 9 They purchased them from two companies, the first company
11:21:37 10 being Casio. Has anyone heard of a company called Casio, a
11:21:42 11 tech company?

11:21:42 12 Okay. Ms. Titterington, Juror No. 7.

11:21:51 13 JUROR TITTERINGTON: I think they made my
11:21:53 14 calculator for math class a long time ago.

11:21:56 15 MS. SMITH: Okay. And you say a long time ago.
11:21:58 16 That's pretty old technology, you'd say?

11:22:01 17 JUROR TITTERINGTON: My dad was military. We were
11:22:05 18 stationed overseas, so England was about 50 years behind.

11:22:08 19 MS. SMITH: All right. Have you seen any new
11:22:10 20 late-breaking technology come from Casio?

11:22:14 21 JUROR TITTERINGTON: No, but I watch Stranger
11:22:17 22 Things, and I think they had a Casio calculator on there.

11:22:20 23 MS. SMITH: Okay. Thank you, ma'am. Thank you,
11:22:22 24 ma'am.

11:22:22 25 I believe, as well, Juror No. 21, Mr. Wentzell, do

11:22:30 1 you have some experience with Casio?

11:22:31 2 JUROR WENTZELL: Just calculator, watches, things
11:22:34 3 like that, years ago.

11:22:35 4 MS. SMITH: Years ago. So that Casio watch you
11:22:37 5 have, did it look anything like new technology, like an
11:22:40 6 Apple Watch or Samsung watch or anything like that?

11:22:44 7 JUROR WENTZELL: No, no. We're talking 40 years
11:22:44 8 ago.

11:22:45 9 MS. SMITH: We're talking old technology.

11:22:48 10 JUROR WENTZELL: Yeah.

11:22:49 11 MS. SMITH: Thank you, sir.

11:22:50 12 Was there someone else, Juror No. 16, I -- I
11:22:55 13 believe? Dr. Caraway, some experience with Casio?

11:22:59 14 JUROR CARAWAY: Calculators.

11:23:00 15 MS. SMITH: Okay. Recent -- recent experience --

11:23:02 16 JUROR CARAWAY: Do I have to say how long ago that
11:23:02 17 was?

11:23:05 18 MS. SMITH: I'm not going to make you.

11:23:05 19 JUROR CARAWAY: Thank you.

11:23:05 20 MS. SMITH: You're welcome.

11:23:06 21 JUROR CARAWAY: It was long, long ago.

11:23:08 22 MS. SMITH: Understood, Doctor. Understood.

11:23:11 23 Thank you.

11:23:11 24 Atmel -- Atmel is another company where Plaintiff
11:23:16 25 bought some of their patents. Has anyone heard of a

11:23:19 1 company called Atmel?

11:23:20 2 I don't see any hands.

11:23:22 3 Now, I want to talk to Juror No. 11. It's going
11:23:34 4 to be an easy question.

11:23:35 5 Now, you told us that you had been on kind of the
11:23:40 6 wrong side of -- or involved in a disagreement about an
11:23:44 7 unpaid bill; is that correct?

11:23:47 8 JUROR STEWART: Yes.

11:23:47 9 MS. SMITH: And you said that you've been accused
11:23:49 10 and wrongly so; is that correct?

11:23:52 11 JUROR STEWART: Yes.

11:23:53 12 MS. SMITH: How did that make you feel?

11:23:55 13 JUROR STEWART: Bad.

11:23:56 14 MS. SMITH: All right. And did you feel -- did
11:23:58 15 you tell them: I didn't do this?

11:24:00 16 JUROR STEWART: Yes, I took them to court.

11:24:01 17 MS. SMITH: Okay. Okay. And how did that turn
11:24:04 18 out for you?

11:24:04 19 JUROR STEWART: Great. I didn't pay the bill.

11:24:06 20 MS. SMITH: So you understand -- you understand
11:24:10 21 that Samsung is here also not wanting to pay the bill.
11:24:16 22 Samsung is here because we believe in our heart of hearts
11:24:19 23 that we've been wrongly accused of using the patents that
11:24:23 24 these folks had purchased and sued us with.

11:24:25 25 JUROR STEWART: Yeah, but I was the little company

11:24:27 1 and they were the big company.

11:24:30 2 MS. SMITH: Let's talk about that. So
11:24:31 3 Judge Gilstrap showed you Lady Justice, and he said,
11:24:35 4 everyone starts out on even grounds. Do you think Samsung
11:24:38 5 is going to start out on even ground in this case?

11:24:41 6 JUROR STEWART: They can start on even ground, but
11:24:44 7 I wasn't on even ground.

11:24:46 8 MS. SMITH: Okay.

11:24:47 9 JUROR STEWART: That was a big company that gave
11:24:50 10 advantage to someone, that gave them the wrong information,
11:24:53 11 then accused me, the little person that was not involved in
11:24:57 12 it at all, of something that I didn't do.

11:25:01 13 MS. SMITH: Well, in this case --

11:25:04 14 JUROR STEWART: See, that's different.

11:25:05 15 MS. SMITH: It is a little bit different. But in
11:25:07 16 this case, what I am looking for is a commitment from you
11:25:13 17 all that no one's going to hold it against Samsung, big or
11:25:18 18 small --

11:25:19 19 JUROR STEWART: Right.

11:25:19 20 MS. SMITH: -- for coming in here and defending
11:25:22 21 ourselves for something that we've been wrongly accused of.

11:25:27 22 JUROR STEWART: That is true.

11:25:28 23 MS. SMITH: We can have that agreement -- that
11:25:30 24 commitment?

11:25:33 25 JUROR STEWART: Yes.

11:25:33 1 MS. SMITH: Thank you, ma'am.

11:25:33 2 Is there anybody who shares a view with Juror
11:25:36 3 No. 11 about the size of the company?

11:25:37 4 So let's go down the road a little bit on that.
11:25:40 5 I'm not here to tell you that Samsung isn't a big company.
11:25:44 6 We're embracing that. All those inventors I talked about,
11:25:47 7 that's what comes with a big company, lots of innovation,
11:25:53 8 lots of invention.

11:25:54 9 So Samsung is a big company. And I don't know
11:25:56 10 what we're going to hear about Solas. They may have an
11:25:59 11 employee. They may have no employees. I don't know what
11:26:02 12 the evidence is going to show. But the companies are not
11:26:04 13 the same size.

11:26:05 14 So there was a question on your questionnaire -- I
11:26:08 15 think it was Question 19, and I appreciate you guys
11:26:11 16 answering those questionnaires.

11:26:13 17 Mr. Sellers, let's -- I want to talk to you a
11:26:16 18 little bit.

11:26:18 19 Juror No. 1, I apologize.

11:26:20 20 Mr. Sellers, I read your questionnaire, and
11:26:26 21 representing Samsung, the bigger company, I got a little
11:26:29 22 bit worried because you said that you strongly kind of
11:26:32 23 agreed with the fact that an individual or a smaller
11:26:35 24 company doesn't have a chance against a bigger company.

11:26:38 25 JUROR SELLERS: It's been my experience that if

11:26:40 1 you don't have the money and the big money, you're going to
11:26:43 2 lose. That's the way I've always seen and the way I feel
11:26:47 3 about it.

11:26:47 4 MS. SMITH: So -- so knowing -- and that's been --
11:26:49 5 you said that's how you've always felt about it -- it's a
11:26:53 6 long-held belief?

11:26:54 7 JUROR SELLERS: Yes, ma'am.

11:26:55 8 MS. SMITH: So knowing how you feel, do you think
11:26:58 9 it might be a better fit for a jury where the companies at
11:27:02 10 war with each other are about the same size?

11:27:05 11 JUROR SELLERS: Yes, definitely.

11:27:06 12 MS. SMITH: And you think, Mr. Sellers, that
11:27:10 13 Samsung is starting out kind of behind the start line, not
11:27:13 14 in the same place --

11:27:13 15 JUROR SELLERS: Probably, yes.

11:27:14 16 MS. SMITH: I appreciate your honesty,
11:27:16 17 Mr. Sellers. Thank you.

11:27:18 18 Is there anyone else on the first row -- I
11:27:20 19 probably don't need to talk to you, Juror No. 3, but --
11:27:24 20 respectfully, that feels like Mr. Sellers, that, you know,
11:27:27 21 just by virtue of Samsung being a big company, we start out
11:27:31 22 with an advantage or the Plaintiff starts out, you know,
11:27:33 23 with a disadvantage in this case?

11:27:36 24 Anybody agree with Mr. Sellers on
11:27:40 25 Ms. Titterington's row, the second row, all the way across?

11:27:42 1 Anyone on the third row feel that way?

11:27:45 2 Thank you.

11:27:52 3 Now, Mr. Wentzell, you have seven kids; is that
11:27:57 4 correct?

11:27:59 5 JUROR WENTZELL: Yes, ma'am.

11:28:00 6 MS. SMITH: This is a perfect, perfect question
11:28:02 7 for you, then. I think you had more than anyone else.

11:28:05 8 You know, when your kids are growing up -- how old
11:28:07 9 are they now --

11:28:09 10 JUROR BUTLER: They're all grown now. My youngest
11:28:11 11 is 19, and they go on up to 40-something.

11:28:13 12 MS. SMITH: Now, when your kids were growing up, I
11:28:16 13 assume they were like mine, they get in fights sometimes?

11:28:21 14 JUROR WENTZELL: Sure. That's children, kids.

11:28:23 15 MS. SMITH: Right. And there's something
11:28:25 16 instinctive, whether it's children or whether it's adults,
11:28:28 17 that we want to get the first word in. Would you agree
11:28:32 18 with that?

11:28:32 19 JUROR WENTZELL: Repeat that.

11:28:34 20 MS. SMITH: If there's a fight amongst your kids,
11:28:37 21 they kind of run to you to try to get the first word.

11:28:41 22 JUROR WENTZELL: Sure.

11:28:42 23 MS. SMITH: And as a good daddy to seven kids, did
11:28:46 24 you always, you know, hear the story of the first one that
11:28:48 25 reaches you first and tells their side of the story, and

11:28:51 1 did you make a decision? Or did you wait to hear the other
11:28:54 2 side of the story from the other kiddo?

11:28:56 3 JUROR WENTZELL: Well, I tried to wait and hear
11:28:57 4 the whole story.

11:28:58 5 MS. SMITH: And here's where I'm going with this,
11:29:01 6 and we've seen a little bit of this in the courtroom
11:29:03 7 already today, Mr. Ward is going to stand up, and he's
11:29:05 8 going to tell his side of the story, and Samsung always has
11:29:09 9 to wait and go second every time.

11:29:11 10 So can I have a commitment from you that you won't
11:29:14 11 make up your mind after Mr. Ward and his team speak in this
11:29:19 12 trial, but you'll wait to hear the whole story?

11:29:23 13 JUROR WENTZELL: Sure.

11:29:23 14 MS. SMITH: Thank you.

11:29:24 15 JUROR WENTZELL: I think you have to hear both
11:29:26 16 sides.

11:29:27 17 MS. SMITH: I appreciate that. Thank you.

11:29:29 18 Is there anyone that disagrees with that?
11:29:32 19 Everyone can commit by a showing of hands that you can wait
11:29:36 20 to hear both sides of the story before making your mind up,
11:29:39 21 if you're lucky enough to serve on this jury? Showing of
11:29:45 22 hands. I appreciate it.

11:29:48 23 Let's talk a little bit about Samsung products.

11:29:52 24 Talked to Dr. Caraway. She was the owner of
11:29:56 25 Samsung products.

11:29:57 1 Who else currently, other than maybe Mr. Preston
11:30:01 2 and Ms. Caraway, owns a Samsung product, by raising your
11:30:06 3 hands? A lot.

11:30:07 4 All right. If you have been mostly -- can you
11:30:10 5 keep your hands up? If you have been mostly satisfied with
11:30:13 6 those Samsung products, will you keep your hand up?

11:30:17 7 Okay. Thank you. You can put your hands down.

11:30:19 8 Now, Juror No. 10, we have not heard a lot from
11:30:22 9 you today. Ms. Anderson.

11:30:25 10 What kind of products do you have?

11:30:28 11 JUROR ANDERSON: The cell phone.

11:30:30 12 MS. SMITH: Okay. Good experience with the cell
11:30:32 13 phone?

11:30:32 14 JUROR ANDERSON: Uh-huh.

11:30:33 15 MS. SMITH: When you bought that cell phone, did
11:30:35 16 you buy it because it kind of had the latest, greatest
11:30:40 17 technology? Or what drove your purchase?

11:30:43 18 JUROR ANDERSON: I'm team Android. I don't like
11:30:46 19 iPhone. So Samsung has been the phone that I chose for the
11:30:49 20 last, I think, 10 years now.

11:30:50 21 MS. SMITH: And have you found that -- that your
11:30:53 22 phone has, whether it's 4G or 5G and the latest, greatest
11:30:58 23 features and things of that nature?

11:31:00 24 JUROR ANDERSON: Yeah.

11:31:01 25 MS. SMITH: If Samsung came up and said, you

11:31:04 1 know -- you know, Ms. Anderson, we're going to put
11:31:09 2 20-year-old technology in your phone, would that have a
11:31:11 3 whole lot of appeal?

11:31:12 4 JUROR ANDERSON: No.

11:31:13 5 MS. SMITH: Okay. Thank you, ma'am.

11:31:14 6 Again, we've heard Mr. Preston on his experience
11:31:23 7 with Samsung.

11:31:23 8 Does anyone have a similar negative experience
11:31:27 9 with Samsung? And I -- you know, I smiled at Mr. Preston
11:31:31 10 when he was talking. I didn't like it, but I wanted to
11:31:33 11 hear it, and I appreciate it.

11:31:34 12 So if anyone shares Mr. Preston's view about
11:31:38 13 either Samsung as a company or they've had an unfortunate
11:31:42 14 experience with a Samsung product, can you let me know now
11:31:45 15 by a showing of hands?

11:31:46 16 All right. Way in the back. Yes, sir?

11:32:01 17 JUROR SPEARMAN: Well, I used to have a Samsung
11:32:05 18 phone a few years ago, and I tried it out, and I found that
11:32:09 19 it doesn't work so well for me because I have to install
11:32:13 20 antivirus software on it, whereas with Apple's phone, it's
11:32:16 21 already pre-installed on there. So I tend to prefer Apple
11:32:20 22 phones over Samsung phones just because of that security
11:32:23 23 feature.

11:32:23 24 MS. SMITH: Thank -- thank you, sir. I appreciate
11:32:25 25 that.

11:32:25 1 Now, when I was preparing to come visit with you,
11:32:30 2 you might not think lawyers get nervous, but we get nervous
11:32:33 3 because we -- our job is to -- you know, to meet you and
11:32:37 4 understand you and figure out who's the best fit for our
11:32:41 5 panel in a very precious few minutes, in 30 minutes. So I
11:32:47 6 asked Mr. Haslam, I said: How am I going to do this? You
11:32:50 7 know, how am I going to -- how should I visit with them?

11:32:52 8 And he said: You know, the best way to figure
11:32:55 9 people out is to ask a question about how they see
11:32:58 10 themselves. I thought, well, I think there may be
11:33:03 11 something to that. So I have two questions that I want all
11:33:05 12 of you to answer by a showing of hands.

11:33:06 13 There are people in this world that are quick
11:33:08 14 decisionmakers, maybe bad decisions, maybe good decisions
11:33:13 15 but they can make a quick decision. And then there are
11:33:16 16 people that, you know, take their time, and they give
11:33:19 17 thoughtful consideration to every little detail.

11:33:22 18 So what I'd like to do is divide you into those
11:33:24 19 two camps about how you see yourself. By a showing of
11:33:28 20 hands, who would describe themselves as a quick
11:33:30 21 decisionmaker?

11:33:32 22 Okay. Mr. Sellers. Ms. Hirzel, No. 2. Got a few
11:33:37 23 in back, No. 38. I may need my glasses. And the last
11:33:43 24 juror over there on the right. Thank you, ma'am.

11:33:45 25 So can I assume by a showing of hands that the

11:33:48 1 rest of you would describe yourselves as people that take a
11:33:51 2 little time, pay attention to details; is that correct?

11:33:55 3 Thank you.

11:33:56 4 All right. Some people -- some people look for
11:34:02 5 opportunities to be leaders. Some people are just the guys
11:34:05 6 and women that are always kind of elected as leaders, but
11:34:08 7 you find yourself in leadership positions.

11:34:12 8 So, again, this is a question about how you see
11:34:16 9 yourself. Who sees themselves or often finds themselves in
11:34:20 10 a role of a leader, by raising hands?

11:34:23 11 All right. We've got 1, 2, 3 across the first
11:34:26 12 row. No. 5. Ms. Falls, is that -- No. 6? And the second,
11:34:32 13 Ms. Titterington? Let's see, Juror No. 17, 18, and No. 25,
11:34:38 14 Mr. Davis. Thank you. Thank you.

11:34:40 15 Ms. Skinner, Mr. Ward said that you knew it was
11:34:50 16 coming, and you've got a husband that was trying to get a
11:34:53 17 patent, so I have a few questions for you.

11:34:55 18 You said it was a -- kind of more about the guys.
11:34:58 19 But why, in your view, was your husband interested in
11:35:01 20 getting a patent?

11:35:02 21 JUROR SKINNER: He just thought it was a way that
11:35:06 22 he could -- he thought he had a good idea, he could make
11:35:11 23 money off of it, and he could help people who were in his
11:35:16 24 same situation.

11:35:16 25 MS. SMITH: And when you say he could make money

11:35:20 1 off of it, which is certainly fair, did he have plans of
11:35:25 2 maybe making a product, selling it to the Cabelas of the
11:35:28 3 world --

11:35:29 4 JUROR SKINNER: Yes.

11:35:29 5 MS. SMITH: -- something of that nature?

11:35:31 6 JUROR SKINNER: Yes.

11:35:31 7 MS. SMITH: Okay. And helping people -- when you
11:35:32 8 say helping other hunters?

11:35:35 9 JUROR SKINNER: Yes.

11:35:35 10 MS. SMITH: Okay. Did he have any plan as he
11:35:39 11 was -- when he came up with his idea and went through
11:35:42 12 everything to patent it, did he think, gosh, you know, I
11:35:45 13 want to file -- I want to take this and file lawsuits with
11:35:48 14 it?

11:35:49 15 JUROR SKINNER: No.

11:35:49 16 MS. SMITH: Is that something you think he'd have
11:35:51 17 the appetite for if someone came and said, well, you know,
11:35:54 18 this might make a good product, but if you give me your
11:35:58 19 patent, we can go file lawsuits and sue people with it? Do
11:36:02 20 you think he'd have an appetite for that at all?

11:36:04 21 JUROR SKINNER: I don't guess I understand. I
11:36:06 22 mean, if somebody -- if he had gotten the patent and then
11:36:10 23 somebody used his idea to do something with his idea, yes,
11:36:15 24 he would have.

11:36:16 25 MS. SMITH: But his primary goal here was to make

11:36:20 1 a product?

11:36:21 2 JUROR SKINNER: Correct.

11:36:22 3 MS. SMITH: Thank you, ma'am.

11:36:22 4 Now, is there anyone sitting out there -- and
11:36:29 5 we've heard a little bit about the technology you're going
11:36:32 6 to hear about, but is there anybody that's sitting out
11:36:35 7 there that says, you know, I consider myself to have maybe
11:36:40 8 more than the average person's knowledge or some special
11:36:46 9 training or certifications in technology generally, not
11:36:49 10 just cell phone technology, but whether it be software or
11:36:52 11 hardware, does anyone have some special training or
11:36:56 12 knowledge in that area?

11:36:57 13 Nobody? Lots of heads shaking no.

11:37:02 14 Well, who fixes your phones and who fixes -- who
11:37:06 15 fixes things in your household when it breaks? Anybody out
11:37:09 16 there that's the go-to in the household?

11:37:13 17 Juror No. 31, yes, ma'am?

11:37:16 18 JUROR BUTLER: My husband -- oh, I'm sorry.

11:37:18 19 My husband works in telecommunications in IT, so I
11:37:22 20 go to him.

11:37:24 21 MS. SMITH: You go to him?

11:37:27 22 JUROR BUTLER: Absolutely.

11:37:29 23 MS. SMITH: Fair enough. So you don't have to
11:37:31 24 know anything about technology?

11:37:31 25 JUROR BUTLER: No.

11:37:32 1 MS. SMITH: Okay. Anybody else that has any
11:37:33 2 special interest, I'll say it that way, any special
11:37:36 3 interest in technology?

11:37:38 4 Ms. Titterington?

11:37:41 5 JUROR TITTERINGTON: Back when it was cool, I did
11:37:44 6 play video games. World of Warcraft, I'm sorry.

11:37:51 7 MS. SMITH: Thank you, ma'am. Appreciate it.

11:37:53 8 Now, Judge Gilstrap showed you all a video. And
11:37:56 9 in the video, the judge, who is an actual judge, talked
11:38:00 10 about invalidity. Was anybody out there surprised to know
11:38:04 11 that your role as a juror in a case like this involved
11:38:10 12 perhaps invalidating a patent, that you had the ability to
11:38:15 13 invalidate a patent that the PTO issued? Did everybody
11:38:20 14 already know that, or was there anybody that was a little
11:38:23 15 bit surprised about that?

11:38:24 16 We have one person, No. 13, No. 20, and No. 18.
11:38:28 17 You guys know a lot more about patents than I ever did
11:38:30 18 before I got this job, I'll say that.

11:38:31 19 Doctor, No. 13, please.

11:38:36 20 You said you were surprised to learn that a jury
11:38:42 21 could -- could invalidate a patent; is that correct?

11:38:46 22 JUROR HOOVER: Yes, ma'am.

11:38:48 23 MS. SMITH: Are you a little hesitant in any way
11:38:50 24 with that role that you might be asked to fill?

11:38:53 25 JUROR HOOVER: Not if that's our responsibility

11:38:55 1 and we have the information we need to do it.

11:38:59 2 MS. SMITH: I appreciate that, Doctor. Thank you.

11:39:01 3 Juror No. 20, you had raised your hand that you
11:39:05 4 were a little bit surprised that jurors had the ability to
11:39:09 5 invalidate a patent.

11:39:11 6 JUROR GIBSON: Yes, I was surprised.

11:39:12 7 MS. SMITH: All right. Any hesitation at all in
11:39:16 8 your mind that you may or may not be the right person to
11:39:19 9 fulfill that kind of job?

11:39:22 10 JUROR GIBSON: Not if you'll present the right
11:39:24 11 evidence, I can -- I think I can cipher through it enough.

11:39:27 12 MS. SMITH: Okay. I appreciate that.

11:39:28 13 And this is interesting because in this case, I
11:39:31 14 might make it a little bit easier for you, Juror No. 20.

11:39:38 15 JUROR GIBSON: I'm sorry?

11:39:39 16 MS. SMITH: I may make it a little bit easier for
11:39:41 17 you because in this case, as you heard in the video,
11:39:45 18 there's times when there's evidence that you as a juror
11:39:48 19 would get, that the PTO examiners never got. And so you'll
11:39:52 20 actually -- you'll actually get to -- get to sift through
11:39:56 21 evidence and look through evidence that the Patent Office
11:40:03 22 didn't have. Did you hear that in the video?

11:40:05 23 JUROR GIBSON: No, I didn't really -- didn't grasp
11:40:08 24 all of it, but --

11:40:09 25 MS. SMITH: Well, sometimes people say that that

11:40:11 1 makes them feel a little bit better about doing the job
11:40:14 2 when they find out that they're not second-guessing the
11:40:16 3 Patent Office, but they're getting entirely different
11:40:19 4 evidence than the Patent Office had.

11:40:20 5 JUROR GIBSON: Well, yeah. I didn't figure
11:40:22 6 everything was going to be straight cut across the Patent
11:40:25 7 Office and the lawyers.

11:40:25 8 MS. SMITH: Thank you, sir. I appreciate it.

11:40:30 9 And now knowing that many of you have heard about
11:40:35 10 the invalidity process, but knowing that that would be your
11:40:38 11 role if you make it on this panel, is there anybody that's
11:40:43 12 slightly hesitant, anybody on the left side of the
11:40:45 13 courtroom, about taking a patent away or invalidating a
11:40:49 14 patent? I don't see any hands.

11:40:52 15 On the right side of the room, anyone that would
11:40:56 16 be a little hesitant in that role?

11:40:58 17 THE COURT: You have five minutes remaining,
11:41:00 18 counsel.

11:41:00 19 MS. SMITH: Thank you, Your Honor.

11:41:01 20 Now, let's see, Mr. Davis, do you have -- do you
11:41:09 21 have cows or critters or --

11:41:12 22 JUROR DAVIS: Horses.

11:41:12 23 MS. SMITH: Horses. Okay. All right.

11:41:14 24 JUROR DAVIS: I have had some cows in the past.

11:41:16 25 MS. SMITH: Okay. I'm a horse person, so this --

11:41:16 1 JUROR DAVIS: Good.

11:41:18 2 MS. SMITH: -- will work.

11:41:19 3 JUROR DAVIS: Good.

11:41:20 4 MS. SMITH: This will work.

11:41:21 5 We're going to go to an auction together, okay?

11:41:24 6 And we're sitting at an auction, and they're trotting the

11:41:28 7 horses out -- I actually just went to a horse auction at

11:41:31 8 Billy Bob's, of all places, in Fort Worth, an unusual place

11:41:35 9 to have an auction, but nonetheless.

11:41:37 10 So you and I are sitting there, and we've got the

11:41:40 11 fanciest horse you've ever seen that goes across in front

11:41:43 12 of all the people at that auction, but we've got a

11:41:47 13 high-dollar horse owner sitting on each side of -- of us.

11:41:50 14 What do you think the chances are that we're going to get

11:41:53 15 that fancy, high-dollar horse for next to nothing when we

11:41:56 16 have all these sophisticated horse owners sitting by us?

11:42:00 17 JUROR DAVIS: Chances are pretty slim.

11:42:03 18 MS. SMITH: Okay. All right. And you and I are

11:42:03 19 still sitting at that auction --

11:42:03 20 JUROR DAVIS: Okay.

11:42:03 21 MS. SMITH: -- and we see the mangiest group of

11:42:06 22 horses. Let's say there's a herd of horses. There's 700

11:42:09 23 of them. And they're mangy. And all these fancy horse

11:42:12 24 owners on both sides of us are sitting on their hands, and

11:42:18 25 they're not bidding. And you and I look at each other and

11:42:22 1 say: Well, maybe we can buy low and sell high. Right?

11:42:28 2 JUROR DAVIS: Yes, correct.

11:42:29 3 MS. SMITH: We could fatten them up, we could
11:42:33 4 shine them up, and so we bid on them. And lo and behold,
11:42:34 5 we win. Okay? Now, if we aren't able to fatten those
11:42:37 6 horses up and shine them up and resell them at a profit, do
11:42:43 7 you think -- do you think that -- that's just kind of how
11:42:44 8 an auction goes, isn't it?

11:42:45 9 JUROR DAVIS: That's the chance you take.

11:42:48 10 MS. SMITH: Yeah, it's the risk you take, right?

11:42:50 11 JUROR DAVIS: I believe that, yes.

11:42:51 12 MS. SMITH: And you don't go back. You can't go
11:42:53 13 sue somebody because the risk you took didn't pan out, can
11:42:56 14 you?

11:42:56 15 JUROR DAVIS: I believe that's correct. Uh-huh,
11:42:58 16 correct.

11:42:58 17 MS. SMITH: Thank you, Mr. Davis.

11:43:01 18 Now, as -- I'm going to probably end the same
11:43:12 19 place that Mr. Ward did. You know, we -- we work really,
11:43:17 20 really hard to think of every question we could possibly
11:43:21 21 ask you. Some of you are shaking your head. But we always
11:43:25 22 miss one.

11:43:26 23 So if there's anybody out there saying, you know,
11:43:29 24 if she would have just asked this one question, I would
11:43:32 25 have told her that I'm not the best fit. I'm joining

11:43:37 1 Mr. Preston, and I'm not the best fit for this Samsung
11:43:41 2 case? Is there anyone that has that thought by a showing
11:43:46 3 of hands?

11:43:47 4 Final question: Is there anything that Mr. Ward
11:43:51 5 said or that you heard in the questioning, you may have a
11:43:58 6 hunch of which direction this case is going, anything that
11:44:01 7 causes you to start out leaning towards Solas and kind of
11:44:06 8 favoring Solas in this case? Showing of hands. Anything I
11:44:10 9 need to know about?

11:44:12 10 Well, once again, I'll finish where I started. On
11:44:19 11 behalf of Samsung and Mr. Haslam and our entire trial team,
11:44:23 12 we thank you for your time this morning. And for the eight
11:44:26 13 lucky -- eight of you who are very lucky and get chosen to
11:44:31 14 serve on this case, we will get to spend about a week with
11:44:36 15 you, and we look forward to it. And we thank you in
11:44:39 16 advance for your service.

11:44:40 17 Thank you, Your Honor.

11:44:41 18 THE COURT: Ladies and gentlemen, at this
11:44:43 19 juncture, there's some certain matters I need to discuss
11:44:45 20 with counsel outside of your presence. But I can't let you
11:44:52 21 all recess and go outside the courtroom, or we'll destroy
11:44:56 22 the social distancing and the precautions that we've taken
11:44:59 23 great pains to preserve.

11:45:00 24 So I'm going to ask the court reporter, Mr. Ward,
11:45:04 25 and Ms. Smith to meet me in the jury room, and we'll

11:45:07 1 discuss those matters outside of your presence by us
11:45:09 2 leaving the courtroom rather than you leaving the
11:45:12 3 courtroom.

11:45:12 4 Also, while I'm out of the courtroom, I may need
11:45:17 5 to talk to one or more of you individually, and if that's
11:45:20 6 the case, I'll send one of the Court Security Officers into
11:45:24 7 the courtroom to get you and to bring you in one at a time
11:45:27 8 where I can talk with you in the jury room outside of the
11:45:30 9 presence of the rest of the panel.

11:45:31 10 Now, while I'm off the bench, you need to stay
11:45:36 11 where you are. I am going to ask the Court Security
11:45:40 12 Officers who are here in the courtroom, if anybody needs a
11:45:43 13 restroom break, one at a time they can be escorted in and
11:45:48 14 out of the courtroom, but we can't let people move in big
11:45:52 15 groups for reasons that you all understand.

11:45:53 16 If you need a restroom break while I'm out of the
11:45:56 17 courtroom, let the Court Security Officer know one at a
11:45:59 18 time. They can try to address that with you.

11:46:01 19 Also, ladies and gentlemen, while I'm out of the
11:46:04 20 courtroom, if you'd like to talk to the person next to you
11:46:07 21 quietly, there's no problem with that. If you'd like to
11:46:10 22 sit there and not talk to anybody, there's no problem with
11:46:13 23 that either. If you do elect to have a conversation with
11:46:18 24 anybody while I'm out of the courtroom, don't discuss
11:46:20 25 anything that's happened in the courtroom today.

11:46:23 1 Let me remind all of you, you have not heard any
11:46:26 2 evidence in this case at all at this point.

11:46:30 3 So talk about how you got through the -- I'm
11:46:34 4 hearing people call it Snowmageddon of 2021 and the ice and
11:46:41 5 the snow and the lack of water and the iced-over roads,
11:46:46 6 talk to them about what's happened to all the shrubbery at
11:46:50 7 your house, like mine, where all the leaves are dead and
11:46:51 8 falling off now because it got down below zero. Talk about
11:46:51 9 your grandchildren, talk about any topic you'd like to talk
11:46:55 10 about, but don't talk about anything that's happened while
11:46:58 11 we've been in the courtroom today because that's -- again,
11:47:01 12 you have not heard any evidence in this case whatsoever.

11:47:04 13 So, with that, Mr. Ward, if you and Ms. Smith will
11:47:09 14 meet me in the jury room along with the court reporter.

11:47:13 15 COURT SECURITY OFFICER: All rise.

11:47:15 16 (Recess.)

11:48:40 17 (Outside the presence of the venire panel.)

11:48:40 18 THE COURT: Mr. Ward, do you have any challenges
11:48:45 19 for cause on behalf of Plaintiff?

11:48:48 20 MR. WARD: I don't, Your Honor. I have one
11:48:51 21 follow-up based upon the juror questionnaire, and I did
11:48:54 22 want to ask Juror No. 16, Dr. Caraway, on her
11:48:57 23 questionnaire, she -- Question No. 42, she said, I base all
11:49:00 24 decisions on the Word of God, no exceptions. I want to ask
11:49:04 25 her if she's going to be, you know, praying about this case

11:49:06 1 and taking what God tells her to do in the case, or is she
11:49:12 2 going to be able to base the decision upon the evidence
11:49:15 3 that she hears. And I just did not feel comfortable asking
11:49:18 4 that question in front of the panel. But that's the only
11:49:20 5 juror I want to follow up with.

11:49:22 6 THE COURT: Well, challenges for cause are a
11:49:33 7 product of the voir dire process with the panel in the
11:49:36 8 courtroom on the record. I don't think it's appropriate
11:49:40 9 for you to challenge a witness for cause for something you
11:49:43 10 didn't raise with them or didn't discuss with them. So I
11:49:46 11 don't consider it a challenge for cause.

11:49:48 12 MR. WARD: It's not a challenge for cause. I
11:49:49 13 would like to question -- before I tell you whether or not
11:49:51 14 I would challenge her for cause, I would like to question
11:49:54 15 her outside the presence of the jury. I figured there was
11:49:57 16 going to be some follow-up with a couple of these jurors,
11:50:02 17 and I would like to question her outside the presence of
11:50:04 18 the jury.

11:50:04 19 THE COURT: Do you have any objection to that,
11:50:06 20 Ms. Smith?

11:50:07 21 MS. SMITH: No, Your Honor.

11:50:08 22 THE COURT: All right. Other than Dr. Caraway, is
11:50:11 23 there anybody else on the panel that you are challenging
11:50:14 24 for cause at this point?

11:50:16 25 MR. WARD: No, Your Honor. And I'm not

11:50:18 1 challenging her for cause, just to be clear. I just wanted
11:50:21 2 you to know that I might.

11:50:23 3 THE COURT: I understand that. I understand that.

11:50:26 4 MR. WARD: Correct.

11:50:26 5 THE COURT: At this point you're not challenging
11:50:26 6 for cause.

11:50:27 7 MR. WARD: Correct.

11:50:27 8 THE COURT: Okay. Ms. Smith, does Defendant have
11:50:29 9 challenges for cause?

11:50:29 10 MS. SMITH: No. 1 and No. 3.

11:50:40 11 THE COURT: All right. And my notes show that
11:50:45 12 No. 6, Ms. Falls, raised her hand about a scheduling
11:50:49 13 possibility or problem.

11:50:50 14 MS. SMITH: Yes.

11:50:50 15 THE COURT: I didn't see anybody other than
11:50:52 16 Ms. Falls. If either of you did, please tell me.

11:50:54 17 MS. SMITH: I just had No. 6 down.

11:50:56 18 MR. WARD: No. 6.

11:50:57 19 THE COURT: Okay.

11:50:57 20 MR. WARD: And I don't know if you want a response
11:50:59 21 to 1 or 3 -- I agree, No. 3 is disqualified.

11:51:06 22 MS. SMITH: I agree with that.

11:51:08 23 THE COURT: All right. Without objection from
11:51:11 24 Defendant, I'll excuse No. 3.

11:51:15 25 You're not offering the same agreement with regard

11:51:17 1 to No. 1?

11:51:19 2 MR. WARD: No, sir. I do not think he's
11:51:26 3 disqualified for cause.

11:51:27 4 THE COURT: Okay. I'll question him in here.

11:51:29 5 MR. WARD: Okay. All right.

11:51:31 6 THE COURT: Anything else from either of you
11:51:33 7 before I bring in the first venire member?

11:51:35 8 MS. SMITH: No, Your Honor.

11:51:36 9 MR. WARD: No, Your Honor.

11:51:36 10 THE COURT: Okay. Would you ask the Court
11:51:39 11 Security Officer to bring in No. 16, Dr. Caraway?

11:52:30 12 (Juror brought into jury room.)

11:52:30 13 THE COURT: Please come in, Dr. Caraway. And
11:52:34 14 please have a seat right there if you don't mind.

11:52:36 15 JUROR CARAWAY: Sure.

11:52:37 16 THE COURT: Thank you.

11:52:38 17 JUROR CARAWAY: Hello.

11:52:39 18 MS. SMITH: Hello.

11:52:40 19 MR. WARD: Hello.

11:52:41 20 THE COURT: Mr. Ward, you had a question for
11:52:44 21 Dr. Caraway?

11:52:45 22 MR. WARD: I did. Dr. Caraway, on the
11:52:49 23 questionnaire, I didn't want to ask you this in front of
11:52:50 24 the panel, you indicated that you base all decisions on the
11:52:52 25 Word of God, no exceptions.

11:52:55 1 JUROR CARAWAY: That's correct. It wasn't a
11:52:57 2 mistake.

11:52:57 3 MR. WARD: No, I didn't think it was. Here's my
11:53:00 4 question, though. This case obviously is going to have to
11:53:02 5 have decisions based upon the evidence and the evidence
11:53:05 6 will be documents and testimony. And I met folks that pray
11:53:09 7 about everything, pray about, you know, the decisions that
11:53:13 8 they might make in a lawsuit.

11:53:14 9 What I wonder is will you make this decision based
11:53:18 10 upon the evidence that is presented, or will you base your
11:53:22 11 decision upon what you think God wants you to do?

11:53:26 12 JUROR CARAWAY: No, it's not a theological
11:53:29 13 argument. It's -- it's the truth. It's a right and wrong
11:53:33 14 argument. And so I believe God reveals right and wrong.

11:53:37 15 MR. WARD: Okay. And do you feel like God will
11:53:39 16 reveal to you what's right and wrong outside of the
11:53:42 17 evidence that you are presented? You think you might
11:53:44 18 have some --

11:53:44 19 JUROR CARAWAY: No, I think that the law is of a
11:53:48 20 nature that God allows us to see things within the auspices
11:53:53 21 of the law.

11:53:53 22 MR. WARD: Okay. And so will you base your
11:53:55 23 decision upon the evidence and --

11:53:59 24 JUROR CARAWAY: Yes --

11:53:59 25 MR. WARD: -- only the evidence.

11:54:02 1 JUROR CARAWAY: -- yes.

11:54:03 2 THE COURT: Ms. Smith, do you have any questions?

11:54:04 3 MS. SMITH: I don't.

11:54:05 4 JUROR CARAWAY: Okay.

11:54:06 5 THE COURT: Dr. Caraway, thank you very much.

11:54:09 6 JUROR CARAWAY: Absolutely.

11:54:10 7 THE COURT: I'm going to let you take your seat
11:54:10 8 back in the courtroom.

11:54:10 9 Don't discuss anything we talked about in here.

11:54:13 10 JUROR CARAWAY: They said I could use the restroom
11:54:16 11 back here. Is that correct? Or do you want me to go back
11:54:18 12 out there? I don't mind going back out there.

11:54:21 13 THE COURT: Just let the Court Security Officer
11:54:23 14 know that you need a restroom break, please.

11:54:27 15 JUROR CARAWAY: Okay. Thank you.

11:54:28 16 THE COURT: Thank you.

11:54:28 17 (Juror excused to return to courtroom.)

11:54:28 18 THE COURT: I'm not going to excuse Dr. Caraway.
11:54:34 19 You haven't challenged her yet. Do you challenge her?

11:54:38 20 MR. WARD: No, I'm not challenging.

11:54:40 21 THE COURT: Okay. So she's not challenged, and
11:54:48 22 she stays on the panel.

11:54:50 23 Okay. Let's bring in Panel Member No. 1,
11:54:58 24 Mr. Sellers, please.

11:55:09 25 Let's go off the record.

11:55:15 1 (Off-the-record discussion.)

11:55:20 2 THE COURT: Let's go back on the record.

11:55:43 3 (Juror brought into jury room.)

11:55:43 4 THE COURT: Hello, Mr. Sellers. Would you come on
11:55:49 5 in and have a seat right there, please?

11:55:51 6 How are you, sir? Are you all right today?

11:55:56 7 JUROR SELLERS: Yes, sir. Cold weather bothers
11:56:00 8 me.

11:56:00 9 THE COURT: Let me ask a question, Mr. Sellers,
11:56:03 10 and then I'm going to let these lawyers ask you a
11:56:06 11 follow-up.

11:56:07 12 I have in my notes, while they were asking you
11:56:09 13 questions out there or asking everybody questions out
11:56:11 14 there, that you believe Samsung was starting out a little
11:56:15 15 bit behind Solas here just because Samsung is a big global
11:56:22 16 company and Solas is not. Did I understand you correctly?

11:56:24 17 JUROR SELLERS: Yes, sir.

11:56:27 18 THE COURT: So you're telling me that if you're
11:56:29 19 selected to serve on this jury, the Plaintiff and the
11:56:32 20 Defendant won't be starting out at the same place? The
11:56:34 21 Plaintiff will be a little bit ahead and the Defendant will
11:56:37 22 be a little bit behind because that's the way you look at
11:56:40 23 these things?

11:56:41 24 JUROR SELLERS: Yes, sir, probably.

11:56:42 25 THE COURT: Okay.

11:56:42 1 JUROR SELLERS: I'll be honest and say that --
11:56:44 2 that's the way I am.

11:56:45 3 THE COURT: I want you to be honest. That's fine.
11:56:49 4 And, again, I just need to know how you feel and what
11:56:51 5 you're willing to tell the Court what you will do and can
11:56:57 6 do and can't do.

11:56:58 7 MS. SMITH, do you have questions for Mr. Sellers?

11:57:01 8 MS. SMITH: Mr. -- do you want the mask on or off?

11:57:04 9 THE COURT: Whichever you prefer as long as we can
11:57:08 10 hear each other.

11:57:09 11 MS. SMITH: Thank you. Mr. Sellers, the beliefs
11:57:13 12 you just shared with Judge Gilstrap, those are long-held
11:57:18 13 beliefs, are they not?

11:57:19 14 JUROR SELLERS: Yes, ma'am.

11:57:20 15 MS. SMITH: And it's not a situation where a judge
11:57:20 16 could give you some type of instruction and tell you not to
11:57:20 17 think that way and have you, you know, do an about-face; is
11:57:26 18 that correct?

11:57:26 19 JUROR SELLERS: No, ma'am. I would be
11:57:28 20 hard-pressed to change anything.

11:57:28 21 MS. SMITH: Okay.

11:57:30 22 JUROR SELLERS: I went in the military at 17 years
11:57:32 23 old, put 20 in, and retired, and I was told not to do this,
11:57:38 24 do that, and it's a very deep, built-in habit of what I've
11:57:41 25 seen. It's --

11:57:41 1 MS. SMITH: And no doubt in your mind.

11:57:43 2 JUROR SELLERS: That's probably the way I feel,
11:57:45 3 and I'll probably feel that way whenever I die.

11:57:47 4 MS. SMITH: Thank you, sir.

11:57:47 5 THE COURT: Mr. Ward, do you have any questions?

11:57:49 6 MR. WARD: I do.

11:57:49 7 Mr. Sellers, you've heard nothing about the size
11:57:52 8 of Solas, have you? You don't know if they're a
11:57:55 9 billion-dollar company or --

11:57:56 10 JUROR SELLERS: Not right offhand, no, sir.

11:58:00 11 MR. WARD: All right. That's your -- it's your
11:58:00 12 speculation that they're a small company.

11:58:02 13 JUROR SELLERS: From what I've heard in there,
11:58:04 14 yes.

11:58:04 15 MR. WARD: All right.

11:58:04 16 JUROR SELLERS: If I was in -- y'all would tell me
11:58:07 17 later in court, and if it turned out that way, I feel like
11:58:12 18 I would be in the wrong for being there. That's why I
11:58:14 19 spoke up.

11:58:15 20 MR. WARD: And there's no wrong answers. If
11:58:19 21 His Honor were to instruct you that all parties are to be
11:58:21 22 treated equally in your courtroom, regardless of the size,
11:58:25 23 and you think Samsung is big, but you don't know how big or
11:58:30 24 small Solas is, do you, sir?

11:58:32 25 JUROR SELLERS: No, sir.

11:58:34 1 MR. WARD: If His Honor were to instruct you that
11:58:36 2 all parties are to be treated equal regardless of the size,
11:58:40 3 are you telling Judge Gilstrap and me that you would be
11:58:42 4 unable to follow that instruction?

11:58:43 5 JUROR SELLERS: In this particular situation?

11:58:46 6 MR. WARD: Yes, sir.

11:58:47 7 JUROR SELLERS: Not until I found out different if
11:58:47 8 they were smaller than Samsung. That would be the
11:58:53 9 difference.

11:58:53 10 MR. WARD: Okay.

11:58:53 11 JUROR SELLERS: And I'd already be involved
11:58:53 12 because we ain't been told that information yet.

11:58:53 13 MR. WARD: So if it's not -- if they're not the
11:58:54 14 same size as Samsung, we're not going to start out the
11:58:57 15 same?

11:58:58 16 JUROR SELLERS: Probably not. That's just --

11:59:00 17 MR. WARD: I appreciate it.

11:59:01 18 JUROR SELLERS: Like I say, I'd rather say it now
11:59:03 19 than be sitting in there with that jury of eight and find
11:59:07 20 out, oops.

11:59:07 21 MR. WARD: I agree with you. That's the right
11:59:09 22 thing to do. So thank you.

11:59:10 23 MS. SMITH: Thank you, sir.

11:59:11 24 THE COURT: Where in Harleton do you live,
11:59:14 25 Mr. Sellers?

11:59:15 1 JUROR SELLERS: On Oscar Reagan Road, almost at
11:59:18 2 the end of it.

11:59:19 3 THE COURT: Yes, sir. I know right where it is.

11:59:21 4 JUROR SELLERS: Bought the old JD -- what's the
11:59:24 5 last name? I can't remember the last name. Anyway, it's
11:59:30 6 the last -- it's almost at the end of Oscar Road.

11:59:30 7 THE COURT: Okay. That's pretty country up there.

11:59:35 8 JUROR SELLERS: JD Ray place.

11:59:35 9 THE COURT: Yes, sir.

11:59:38 10 JUROR SELLERS: That's what it was.

11:59:39 11 THE COURT: Okay. I'm going to let you rejoin the
11:59:41 12 group in the courtroom, Mr. Sellers. Just don't discuss
11:59:44 13 anything we've talked about in here, okay?

11:59:47 14 JUROR SELLERS: Thank you.

11:59:48 15 THE COURT: Thank you very much.

11:59:49 16 (Juror excused to return to courtroom.)

11:59:49 17 THE COURT: I'm going to excuse Mr. Sellers.

11:59:54 18 MS. SMITH: Thank you, Your Honor.

11:59:54 19 THE COURT: Because he's going to find out Solas
11:59:57 20 and Samsung are drastically different in size.

11:59:59 21 Okay. Let's bring in No. 6, please.

12:00:39 22 MR. WARD: Are we off the record?

12:00:41 23 THE COURT: Off the record.

12:00:43 24 (Off-the-record discussion.)

12:00:45 25 THE COURT: Now we're back on the record.

12:00:53 1 (Juror brought into jury room.)

12:00:53 2 THE COURT: Come in, Ms. Falls. If you'd have a
12:00:57 3 seat right there, please, ma'am.

12:00:58 4 JUROR FALLS: Sure.

12:01:00 5 THE COURT: Thank you.

12:01:00 6 When we started out today, Ms. Falls, I talked
12:01:03 7 about the fact that we were going to pick the jury today
12:01:05 8 and start the trial today and would go straight through
12:01:08 9 until we finished, and I thought it would take -- I thought
12:01:11 10 we'd be through by the end of the week. There was an
12:01:13 11 outside chance -- small chance we might go over into the
12:01:17 12 following Monday, but I thought we could get the case tried
12:01:20 13 and finished this week. And I asked if there were any
12:01:23 14 members out there who potentially had a problem being
12:01:25 15 available to be here if they were selected during that
12:01:27 16 entire time, and you raised your hand.

12:01:29 17 JUROR FALLS: Yes.

12:01:30 18 THE COURT: Tell me what you had in your mind when
12:01:33 19 you raised your hand.

12:01:33 20 JUROR FALLS: My husband works the night shift
12:01:35 21 this week, and he starts his shift tomorrow. We have one
12:01:38 22 car. I don't know how I'd get here.

12:01:40 23 THE COURT: Okay. And did you say you lived in
12:01:48 24 rural Jefferson?

12:01:50 25 JUROR FALLS: Yes.

12:01:51 1 THE COURT: I understand what that means. How far
12:01:53 2 out of the city of Jefferson do you live?

12:01:56 3 JUROR FALLS: Four miles west and about two miles
12:01:59 4 in on a private road.

12:01:59 5 THE COURT: Okay.

12:02:01 6 JUROR FALLS: You can imagine what that was like
12:02:04 7 during the Snowmageddon.

12:02:06 8 THE COURT: Yes, ma'am. Yes, ma'am. Remind me
12:02:08 9 who your husband works for.

12:02:10 10 JUROR FALLS: Texarkana Aluminum. I can't say
12:02:14 11 that word.

12:02:15 12 THE COURT: Okay. When you say he starts the
12:02:17 13 night shift, when would he be leaving and when would he be
12:02:21 14 coming --

12:02:21 15 JUROR FALLS: He would have to leave at 4:00.

12:02:24 16 THE COURT: And when would he get home?

12:02:27 17 JUROR FALLS: 7:00 in the morning.

12:02:28 18 THE COURT: Okay.

12:02:29 19 JUROR FALLS: It takes him about two and a half
12:02:30 20 hours to get there. And if he has to stop for anything,
12:02:34 21 you know, gas, whatever.

12:02:35 22 THE COURT: Now, you don't know this yet because I
12:02:38 23 haven't told everybody, but except for today, once we
12:02:43 24 recess this evening and start back Tuesday morning, I'm
12:02:46 25 going to tell the jury that's selected to be here and be

12:02:50 1 ready to go by 8:30.

12:02:52 2 Now, if he gets home at 7:00 in the morning, I
12:02:55 3 would assume it's about a 25, 30-minute drive from your
12:02:59 4 house to the courthouse?

12:03:00 5 JUROR FALLS: Right.

12:03:01 6 THE COURT: Would you have a problem being able to
12:03:03 7 take the car and get here by 8:30?

12:03:05 8 JUROR FALLS: If I was out of here in time to get
12:03:07 9 home at 4:00.

12:03:11 10 THE COURT: Ah, that's true. We're not going to
12:03:16 11 be out of here at 4:00. We're going to be probably 5:30
12:03:20 12 and some days 6:00 o'clock getting out of here.

12:03:25 13 Okay. So we've got to worry about you coming and
12:03:28 14 going, not just you getting here. I see that. Okay.

12:03:31 15 And I assume there's not a neighbor with an extra
12:03:36 16 vehicle or some other way you could easily fill the gap
12:03:39 17 here that you haven't told me about.

12:03:41 18 JUROR FALLS: I don't even know the neighbors.

12:03:43 19 THE COURT: Okay.

12:03:44 20 JUROR FALLS: We're just recently here, you know.

12:03:46 21 THE COURT: Right. All right. I think you've
12:03:47 22 told me everything I need to know, Ms. Falls. I'm going to
12:03:50 23 let you rejoin everybody in the courtroom.

12:03:53 24 JUROR FALLS: Thank you.

12:03:53 25 THE COURT: Just don't discuss anything we've

12:03:55 1 talked about in here.

12:03:56 2 JUROR FALLS: Sure.

12:03:57 3 THE COURT: Thank you, ma'am.

12:03:57 4 (Juror excused to return to courtroom.)

12:03:57 5 THE COURT: I'm going to excuse Ms. Falls. I
12:04:08 6 don't see how she can make that work with her husband.

12:04:10 7 In almost 10 years, I've never had anybody tell me
12:04:17 8 they've only had one vehicle. First time that's ever
12:04:20 9 happened.

12:04:21 10 Okay. I'm excusing No. 1, No. 3, and No. 6. And
12:04:25 11 there are no other challenges that have been raised. So
12:04:29 12 that means we're going to seat eight jurors, four strikes
12:04:34 13 per side.

12:04:36 14 MR. WARD: Go to 19.

12:04:37 15 THE COURT: 16, 17, 18, strike through 19?

12:04:40 16 MR. WARD: I believe so.

12:04:42 17 THE COURT: All right. Five minutes after 12:00.
12:04:49 18 I'll give y'all 20 minutes to strike your list.

12:04:52 19 Let's go back in the courtroom, and then I'll
12:04:54 20 instruct you from there on the record.

12:04:55 21 MR. WARD: Okay.

12:04:56 22 MS. SMITH: Thank you.

12:04:58 23 Can one team use this room, Your Honor, and the
12:05:02 24 other the attorney conference room?

12:05:03 25 THE COURT: I think that's fine.

12:05:05 1 MS. SMITH: Thank you.

12:05:05 2 (Recess.)

12:05:05 3 (Proceedings in the courtroom, venire panel.
12:05:09 4 present.)

12:05:09 5 COURT SECURITY OFFICER: All rise.

12:06:18 6 THE COURT: Ladies and gentlemen, I thank you for
12:06:20 7 your cooperation and patience while I took care of that
12:06:24 8 outside of your presence.

12:06:25 9 I'm now going to need to give the attorneys in the
12:06:28 10 case about 25 minutes or so -- 20 minutes or so to strike
12:06:32 11 their lists and turn in their peremptory challenges. I'll
12:06:37 12 also need some time to go over those and compare them and
12:06:40 13 make sure they're completely accurate and what they should
12:06:44 14 be so that there's no question about which of the eight of
12:06:47 15 you have been selected to serve on this jury.

12:06:49 16 While I'm out of the courtroom and while counsel
12:06:54 17 are out of the courtroom, I'm going to ask you to stay
12:06:56 18 seated. Again, if you need a restroom break, raise your
12:06:59 19 hand, motion to one of these two Court Security Officers,
12:07:02 20 and they'll come to you, and you can ask them to
12:07:04 21 accommodate you in that regard. We'll just have to do that
12:07:07 22 one at a time or in small groups.

12:07:09 23 Also, I know we're past the noon hour by just a
12:07:13 24 little bit now. I'm going to ask the clerk's office to
12:07:16 25 bring in some bottled water, and I think there are peanut

12:07:22 1 butter crackers, something to nibble on.

12:07:27 2 And any of you -- and most of you don't know me,
12:07:30 3 but it's a real stretch for me to let people bring water
12:07:33 4 and crackers to eat into a courtroom, but I'm not going to
12:07:37 5 make you sit here past the noon hour and not have something
12:07:40 6 to drink and something in your stomach.

12:07:43 7 So the clerk's office will bring those in. If you
12:07:45 8 want some of that, either water, crackers, or both, raise
12:07:49 9 your hand, let the clerk's office know, and they'll make
12:07:51 10 that available to you.

12:07:52 11 Again, feel free to have a quiet, discreet
12:07:56 12 discussion with your neighbors if you want to. But don't
12:08:01 13 talk about anything that's happened today since you got to
12:08:03 14 the courthouse here in Marshall. Again, you haven't heard
12:08:05 15 any evidence in this case whatsoever.

12:08:08 16 But with those instructions, counsel, I'm going to
12:08:11 17 afford you -- it's eight minutes after 12:00, I'll give you
12:08:14 18 until 12:30 to turn in your strike lists to the courtroom
12:08:18 19 deputy.

12:08:18 20 And the Court will stand in recess until I'm back
12:08:22 21 after those have been turned in.

12:08:23 22 The Court's in recess.

12:08:25 23 COURT SECURITY OFFICER: All rise.

12:08:25 24 (Recess.)

12:35:50 25 (Venire panel in.)

12:36:00 1 COURT SECURITY OFFICER: All rise.

12:36:01 2 THE COURT: Be seated, please.

12:37:03 3 Ladies and gentlemen, if you will listen carefully
12:37:16 4 as your name is called. And if your name is called, if
12:37:19 5 you'll come forward and take a seat in the jury box.

12:37:23 6 I'm going to ask that the first person called go
12:37:29 7 down to the end of the front row, the first row on the jury
12:37:33 8 box. And if you will, there may be something in that
12:37:41 9 furthest seat. There may be a mask or a face shield or
12:37:44 10 something. Pick that up or stand in front of that. I'm
12:37:47 11 going to have everybody in the box before I seat you.

12:37:49 12 But if the first person will stand in front of the
12:37:52 13 furthest chair on the front row, the one closest to you
12:37:55 14 all, and then the second person will leave a vacant chair
12:38:00 15 and stand in front of the next one, and the third person
12:38:03 16 will leave a vacant chair and stand in front of the next
12:38:06 17 one, and the fourth person leave a vacant chair, and that
12:38:09 18 will put them on the end of the first row closest to me.

12:38:12 19 Then on the second row, whoever is going to be
12:38:16 20 Juror No. 5, if you will leave the last chair on the second
12:38:20 21 row closest to the gallery where you are vacant and stand
12:38:24 22 in front of the second chair. And then the next one,
12:38:29 23 No. 6, will leave a vacant chair and stand in front of the
12:38:33 24 next one. That way the four of you on the back row will be
12:38:37 25 looking across the vacant chair of the person on the front

12:38:40 1 row, and you won't be directly behind each other, and there
12:38:44 2 won't be any risk that somebody short sitting in front of
12:38:49 3 somebody tall will have problem seeing things over the
12:38:53 4 course of the trial. I hope that's clear.

12:38:56 5 So with those instructions, I'm going to ask
12:38:58 6 Ms. Lockhart to call the names of the eight members of the
12:39:02 7 panel that have been selected to serve as jurors in this
12:39:05 8 case.

12:39:06 9 COURTROOM DEPUTY: Linda Hirzel, Eric Walker,
12:39:19 10 Brenda Carpenter, Felicia Hux, Shani Anderson, Ervin
12:39:52 11 Talton, Richard Storey, and William Smigiel -- Smigiel.

12:40:29 12 Sorry about that.

12:40:40 13 THE COURT: Thank you, ladies and gentlemen.

12:40:50 14 If you would make sure there's a seat vacant
12:40:53 15 between you and the closest person to you, and then if you
12:40:55 16 would pick up anything that's in the seat directly behind
12:40:59 17 you, and then have a seat, please.

12:41:00 18 All right. Those of you that were not selected to
12:41:17 19 serve in this case, I'm about to excuse you, but I'd like
12:41:23 20 to -- before I formally excuse you, I'd like to tell you
12:41:28 21 very sincerely how much the Court appreciates your presence
12:41:32 22 here this morning -- your presence here this morning, your
12:41:36 23 willingness to serve.

12:41:37 24 I am well aware, ladies and gentlemen, that every
12:41:40 25 one of you had other places to be today and other things to

12:41:43 1 do this morning that were important and significant in your
12:41:47 2 lives, and you set those aside, and you made the sacrifice
12:41:51 3 to be here as summoned and present yourself for jury duty.

12:41:56 4 That is a very real and important public service,
12:41:59 5 notwithstanding the fact that you were not actually
12:42:02 6 selected to serve on this jury. And the Court wants to
12:42:04 7 thank you publicly and acknowledge the importance of what
12:42:08 8 you've done by being here this morning.

12:42:10 9 Let me make it clear, the Court could not
12:42:12 10 discharge its obligations under the Constitution if
12:42:17 11 ordinary citizens, such as yourselves, did not come
12:42:20 12 forward, as you have, and present yourself when summonsed
12:42:23 13 to appear for jury duty.

12:42:24 14 Even though you weren't selected, you have
12:42:27 15 performed a very real and important public service. You
12:42:31 16 have helped protect, defend -- protect, preserve, and
12:42:35 17 defend our Constitution by being here. It is no small
12:42:38 18 thing, ladies and gentlemen. And I want you to know, I am
12:42:41 19 well aware of that. These lawyers on both sides are well
12:42:44 20 aware of that. Everyone thanks you for the sacrifices
12:42:47 21 you've made by being here this morning and presenting
12:42:50 22 yourselves.

12:42:50 23 I'm going to excuse you in just a second. As I
12:42:55 24 do, if you would exit through the double doors in the back
12:42:58 25 of the courtroom. If you will make sure you see the

12:43:00 1 clerk's office as you turn to the right and go out. If you
12:43:03 2 need a restroom and you didn't get a chance earlier, take a
12:43:06 3 left going outside those double doors, and right around the
12:43:10 4 corner are the public restrooms for men and women.

12:43:13 5 If you're ready to leave the building, if you'll
12:43:16 6 turn to the right going out these double doors, you'll go
12:43:19 7 right past the clerk's office and the main entrance to the
12:43:23 8 courthouse.

12:43:23 9 Please stop at the clerk's office. Make sure they
12:43:28 10 get these very expensive numbers you've been wearing on
12:43:30 11 your garments' back. We like to keep those. Those are not
12:43:35 12 souvenirs.

12:43:36 13 Also, if you have any questions or you need any
12:43:37 14 documentation for an employer of where you've been this
12:43:40 15 morning, the clerk's office will be more than happy to help
12:43:44 16 you. If you have any questions at all, please present them
12:43:46 17 to the clerk's office as you leave the building.

12:43:50 18 Again, ladies and gentlemen, thank you so much for
12:43:52 19 your presence, for your willingness to serve, and for what
12:43:55 20 you've done by being good citizens to be here this morning.

12:43:59 21 With that, those of you not selected to serve on
12:44:02 22 this jury are now excused.

12:44:03 23 COURT SECURITY OFFICER: All rise.

12:44:07 24 (Unselected venire panel members out.)

12:44:31 25 THE COURT: I'm going to ask everybody but the

12:45:17 1 jury to be seated, please.

12:45:19 2 Ladies and gentlemen of the jury, if you'd remain
12:45:22 3 standing.

12:45:22 4 And at this time, I'm going to ask Ms. Lockhart,
12:45:25 5 our courtroom deputy, to administer the oath to the members
12:45:29 6 of the jury.

12:45:30 7 (Jurors sworn.)

12:45:34 8 THE COURT: Please be seated.

12:45:46 9 Ladies and gentlemen, I'm about to excuse you for
12:45:56 10 a late lunch, and it should be waiting for you in the jury
12:46:00 11 room when I release you in just a few minutes. But before
12:46:04 12 I do, I need to cover a couple important instructions to
12:46:07 13 you.

12:46:08 14 You've found either in your chair or the chair
12:46:12 15 next to you a plastic face shield and a plastic mask that's
12:46:17 16 clear and transparent. Take those with you when you go to
12:46:20 17 the jury room for lunch. And if you will, look at them,
12:46:23 18 decide which of those or both of them you'd like to use,
12:46:27 19 but if you would replace your existing masks over the lunch
12:46:30 20 break with either the face shield or the plastic mask or
12:46:34 21 both. But if you would, don't open them now, just take
12:46:39 22 them with you when you go to lunch.

12:46:40 23 And one thing I will tell you from past experience
12:46:43 24 with regard to these, there's film on the front that you
12:46:47 25 have to peel off. Otherwise, if you do like I did and put

12:46:51 1 it on without that, everything looks blurry. So make sure
12:46:54 2 if you're going to use the face shield, that you peel off
12:46:56 3 the plastic film, and then you'll have a clear
12:46:59 4 line-of-sight through that.

12:47:00 5 But make that decision, if you will, over the
12:47:03 6 lunch break. And when you come back in after lunch, if you
12:47:06 7 would have either or both that you're comfortable with
12:47:11 8 wearing in lieu of those obstructive masks that we can't
12:47:16 9 see around now that you all have on.

12:47:18 10 Also, ladies and gentlemen, I told everybody that
12:47:20 11 I wanted everybody to keep their same seats throughout the
12:47:24 12 process, but I'm going to change that rule just a little
12:47:26 13 bit because I didn't understand Mr. Talton had a cane and
12:47:30 14 had some difficulty walking.

12:47:32 15 So I'm going to ask Mr. Smigiel and Mr. Talton to
12:47:38 16 switch over the lunch hour, so that when you come back,
12:47:41 17 Mr. Smigiel will be in the middle of the back row and
12:47:44 18 Mr. Talton will be on the end, and that will make it easier
12:47:46 19 for him, and then we'll just keep that order throughout the
12:47:48 20 process as we go forward, all right?

12:47:50 21 Now, let me give you a few instructions on the
12:47:54 22 record that are very important. I'll try to go through
12:47:57 23 these quickly and then let you go to lunch.

12:47:59 24 While you're over -- while you're having a lunch
12:48:03 25 break, I'm going to ask Ms. Clendening or her staff in the

12:48:07 1 clerk's office to come in and check on you. When they do,
12:48:10 2 please give the clerk's office a good working cell phone
12:48:13 3 number for each of you.

12:48:15 4 It is possible over the course of this trial that
12:48:18 5 we might need to reach you after-hours while you're away
12:48:22 6 from the courthouse. And given the world in which we live,
12:48:25 7 the best way to do that is if you would give a good,
12:48:29 8 accurate cell phone number to the clerk's office so they
12:48:31 9 can write that down and have it.

12:48:33 10 It probably won't happen, but just as a
12:48:37 11 precaution, please make sure when they check on you over
12:48:41 12 the lunch break that you give the clerk's office a good
12:48:43 13 working cell phone number for you.

12:48:45 14 Also, speaking of cell phones, over the course of
12:48:48 15 the trial, you're going to see these lawyers out here with
12:48:51 16 laptops and iPads and smartphones and all kinds of
12:48:56 17 electronic devices. Those are now the legal pads and pens
12:49:01 18 that we used to use when I got out of law school. They're
12:49:06 19 tools of the trade and they're entitled to have them and
12:49:07 20 they're entitled to use them throughout the trial process.

12:49:10 21 However, they're under strict requirements of me
12:49:14 22 to keep them silent and not to allow them make any kind of
12:49:17 23 noise or distract from the proceeding.

12:49:19 24 However, I'm going to ask with regard to the eight
12:49:21 25 of you that if you have a smartphone or any kind of

12:49:25 1 electronic tablet that you usually carry with you, that you
12:49:29 2 either leave that at home or you leave it in your vehicle
12:49:32 3 when you come back tomorrow. If you have it with you now,
12:49:37 4 leave it in the court -- in the jury room and don't bring
12:49:41 5 it back into the courtroom.

12:49:43 6 There are two reasons for this. Number one,
12:49:46 7 invariably, if you're like me, you think it's on silent and
12:49:48 8 it's not and it rings in the middle of something important
12:49:50 9 going on and creates a very negative distraction.

12:49:54 10 But also, ladies and gentlemen, one of the things
12:49:57 11 I'm going to tell you about your job as jurors during this
12:50:00 12 trial is that you are not to research anything about this
12:50:04 13 case. You're not to have any outside information about
12:50:07 14 this process.

12:50:09 15 And as we all know, smartphones, whether it's an
12:50:13 16 Apple phone or an Android phone, they are basically small
12:50:16 17 computers that you carry with you. And the temptation to
12:50:19 18 do a online search about one of these lawyers or one of
12:50:23 19 these products you're going to hear about or one of these
12:50:26 20 parties or anything related to this trial, sometimes is
12:50:29 21 tempting. And I don't want you to be tempted to do
12:50:33 22 anything that would violate the instructions I'm going to
12:50:35 23 give you.

12:50:35 24 So, please, don't bring your cell phones back into
12:50:40 25 the courtroom. Leave them in the jury room if you have

12:50:43 1 them with you today. And starting tomorrow, either leave
12:50:45 2 them in your car, and if you need to check an important
12:50:48 3 email or something related to your work, there will be
12:50:53 4 recesses and lunch breaks where you can run to your vehicle
12:50:57 5 and do that, if that's important. But either leave them in
12:51:00 6 your vehicle or leave them at home and don't bring them
12:51:03 7 back to the courthouse tomorrow.

12:51:04 8 Also, ladies and gentlemen, and this may be the
12:51:06 9 most important instruction I give you throughout the entire
12:51:09 10 trial. They're all important, but this one, at least in my
12:51:12 11 view, is right up there at the top. Do not communicate
12:51:15 12 with anyone about this case. Do not discuss this case with
12:51:18 13 anyone.

12:51:20 14 Once you've heard all the evidence -- and the
12:51:23 15 evidence in this case will be the sworn testimony that's
12:51:25 16 presented under oath and subject to cross-examination by
12:51:30 17 the witnesses from the witness stand and the documents and
12:51:33 18 other tangible things that the Court has already reviewed
12:51:36 19 and examined and has determined comply with the Rules of
12:51:41 20 Evidence and are fully admissible as exhibits. Those two
12:51:45 21 categories of information are the only information that you
12:51:49 22 should have before you as a part of this trial and at the
12:51:53 23 time that I instruct you to retire to the jury room to
12:51:57 24 consider the questions set forth in the verdict form and to
12:52:00 25 render your verdict in this case.

12:52:02 1 It must be at that point, when I ask you to answer
12:52:07 2 those questions that are in the verdict form after the
12:52:09 3 trial is at an end and you've heard all the evidence in
12:52:12 4 this case, that the sole universe of the information you
12:52:16 5 have to draw on must be limited to and confined to the
12:52:21 6 sworn testimony that's presented in court and the exhibits
12:52:24 7 that I have introduced and I have permitted to be
12:52:28 8 introduced into evidence. That's it. It can't be anything
12:52:31 9 else.

12:52:31 10 And if there is any outside information that is
12:52:36 11 before you other than the sworn testimony of the witnesses
12:52:40 12 and the admitted -- the admitted exhibits in the case, then
12:52:45 13 it jeopardizes the entire process, and it may very well
12:52:49 14 require me to start the entire trial over with a brand-new
12:52:53 15 jury and waste hundreds and thousands of hours of work and
12:52:58 16 thousands and thousands of dollars of expense and a lot of
12:53:01 17 your time and attention and energy.

12:53:04 18 So, please, it is a fundamental rule that you must
12:53:08 19 not communicate with anyone about this case, you must not
12:53:12 20 discuss this case in any way.

12:53:15 21 And I will tell you, as I tell every jury, unless
12:53:18 22 you live alone, when you get home tonight, I don't care
12:53:22 23 where it is or who you live with, whoever is there to meet
12:53:26 24 you when you walk in the door, the first question out of
12:53:29 25 their mouth is going to be: Well, what happened in federal

12:53:32 1 court in Marshall today?

12:53:34 2 Don't even try to answer that question. Just
12:53:37 3 smile and say, that very stern Federal Judge told me not to
12:53:42 4 talk about the case with anyone until the trial was over
12:53:45 5 and he had released me as being a juror in the case, and I
12:53:50 6 can't discuss it now.

12:53:52 7 Just make sure you give that answer, because if
12:53:54 8 you even try to answer the question, and you will get the
12:53:57 9 question unless you live alone, you're going to almost
12:54:00 10 invariably violate the instruction I've given you.

12:54:02 11 And when I say, ladies and gentlemen, don't --
12:54:06 12 don't communicate about the case in any way, that means not
12:54:10 13 only speaking back and forth to another human, that means
12:54:16 14 for any of you that are users of social media and social
12:54:20 15 media platforms, do not post on Facebook, do not tweet on
12:54:26 16 Twitter, do not use Instagram or any of the other myriad of
12:54:31 17 social networks -- social media networks out there or other
12:54:36 18 electronic means of communication. Those are just as much
12:54:38 19 communication as you talking to whoever meets you at home
12:54:42 20 and asks you about your day in Marshall today. Do not
12:54:45 21 discuss the case with anyone in any way.

12:54:48 22 Also, when I say, don't discuss the case with
12:54:53 23 anyone, I also mean the eight of you. When you're at
12:54:56 24 lunch, when you're on a recess, when you're coming and
12:54:59 25 going, certainly be friendly, speak to each other, but

12:55:02 1 don't discuss the testimony, the exhibits, the evidence,
12:55:04 2 the arguments. Don't discuss anything that's happened with
12:55:08 3 this trial.

12:55:10 4 That is reserved until all the evidence is in and
12:55:16 5 you've heard the Plaintiff's evidence, you've heard the
12:55:19 6 Defendants' evidence, and you've heard any rebuttal
12:55:20 7 evidence the Plaintiff may put on. That's what the rules
12:55:23 8 of procedure allow.

12:55:24 9 And when all the evidence has been presented, then
12:55:28 10 I will instruct you to retire to the jury room after I've
12:55:32 11 given you specific instructions on how to answer the
12:55:35 12 verdict form and the questions set forth in it.

12:55:39 13 And when that happens, ladies and gentlemen, when
12:55:42 14 you've heard all the evidence and I've instructed you to
12:55:45 15 retire to the jury room and consider your verdict, then the
12:55:49 16 light switches, and everything turns 180 degrees. Then you
12:55:54 17 go from you are prohibited from discussing the case with
12:55:56 18 each other to you are required to discuss the case with
12:56:00 19 each other and discuss the evidence and discuss the
12:56:04 20 evidence in light of the instructions I've given you and
12:56:07 21 the questions that are in the verdict form for you to
12:56:10 22 answer so that you can answer those questions, and answer
12:56:16 23 them unanimously.

12:56:17 24 So until all the evidence has been presented and I
12:56:19 25 tell you to retire and deliberate on your verdict, you must

12:56:21 1 not discuss the case among the eight of yourselves, and you
12:56:24 2 must not discuss or communicate in any way with anyone
12:56:28 3 about this case.

12:56:30 4 But once you've heard all the evidence, once I've
12:56:33 5 given you my final instructions on the law to apply, once
12:56:36 6 counsel have presented their closing arguments to you, and
12:56:40 7 I say, ladies and gentlemen, you may now retire to the jury
12:56:44 8 room to consider and act upon your verdict, at that point,
12:56:48 9 that magic point, you go from being prohibited to discuss
12:56:52 10 the case among each other to required to discuss the
12:56:55 11 evidence and the case amongst each other in an attempt to
12:56:59 12 answer those questions in that verdict form in a unanimous
12:57:03 13 fashion.

12:57:03 14 So don't discuss the case with anyone. Don't
12:57:07 15 communicate about the case with anyone. Don't post on any
12:57:11 16 electronic media. Don't email. Don't text. Don't instant
12:57:16 17 message.

12:57:16 18 Also, don't do any research about anything. Don't
12:57:19 19 go home on your family computer and Google Solas or Samsung
12:57:24 20 or anything about any of these lawyers or me or anything
12:57:29 21 about this case. Don't do any outside research whatsoever
12:57:34 22 of any kind, whether it's at home on your computer or in
12:57:37 23 the public library with an encyclopedia. Just don't do any
12:57:41 24 outside research of any kind.

12:57:42 25 Again, the fundamental foundational rule is that

12:57:47 1 you must base the decisions you make in this case solely
12:57:51 2 and only on the evidence that comes in during the trial
12:57:56 3 under oath from the witnesses subject to cross-examination
12:58:00 4 and the exhibits that the Court and only the Court has
12:58:04 5 admitted into evidence. That is the entirety, the sole
12:58:08 6 universe of the information that you must have before you.
12:58:12 7 And if you have any other information from any other
12:58:14 8 source, it jeopardizes the entire process.

12:58:17 9 So that's why I say this may be the most important
12:58:21 10 instruction I give you. They're all important. I expect
12:58:24 11 you to follow all of them. But I start with this one
12:58:26 12 because it is so significant.

12:58:28 13 As a matter of fact, ladies and gentlemen, anybody
12:58:32 14 that's been in a trial with me before will tell you it's so
12:58:38 15 important that I'm going to probably, just out of habit,
12:58:42 16 instruct you again and again and again on this. Pretty
12:58:45 17 much any time you get out of those chairs and you walk to
12:58:48 18 this jury room, whether it's for a recess or a lunch break
12:58:51 19 or to go home at the end of the day, you're going to hear
12:58:54 20 me say, do not discuss or communicate with anyone about
12:58:57 21 this case in any way. You're going to hear it over and
12:59:00 22 over -- you're going to be tired of hearing it by the time
12:59:03 23 this trial is over.

12:59:04 24 But it is absolutely fundamental, and it is
12:59:08 25 critically important, and that's why I'm going to

12:59:10 1 repetitively remind you of this instruction throughout the
12:59:13 2 process.

12:59:14 3 Also, ladies and gentlemen, I don't think this is
12:59:18 4 likely to happen, but I want you to understand there is a
12:59:22 5 lot on the line for both the Plaintiffs and the Defendants
12:59:24 6 in this case. And there are no small cases that get to
12:59:28 7 trial before a jury in a United States District Court.
12:59:32 8 This is an important trial.

12:59:33 9 It is possible -- I don't think it's likely, but
12:59:37 10 it is possible some outside source might try to contact you
12:59:42 11 during the trial of this case and approach you about how
12:59:46 12 you will vote to decide the issues in this case.

12:59:49 13 That is absolutely improper. It is in almost
12:59:55 14 every circumstance a crime, and I don't think it will
12:59:58 15 happen. But if it should, because this is an important
01:00:02 16 trial, if you are approached by anyone in any way during
01:00:07 17 your service as jurors that you feel the least bit awkward
01:00:11 18 about or it seems out of place or not right in any way,
01:00:16 19 then you should immediately tell Ms. Clendening in the
01:00:19 20 clerk's office, she will tell me, and the Court will
01:00:22 21 address it.

01:00:23 22 I don't think it's likely, but I have to tell you
01:00:26 23 it's within the realm of possibility. So be aware of that
01:00:32 24 as we go forward.

01:00:32 25 Also, over the course of the trial, you'll be

01:00:37 1 coming in in the mornings and leaving in the evenings,
01:00:41 2 there'll be breaks for lunch, et cetera. There may well be
01:00:45 3 times that you pass one or more of these lawyers or
01:00:48 4 witnesses or company representatives on the sidewalk out
01:00:52 5 front, on the stairs, somewhere in the public spaces in and
01:00:56 6 around this courthouse.

01:00:56 7 I want you to understand when you do, they're not
01:00:59 8 going to talk to you. They're not going to say, good
01:01:02 9 morning, how are you? Did you have a good night? They're
01:01:05 10 not going to be friendly and outgoing and gregarious as we
01:01:09 11 always are in East Texas because I have instructed them not
01:01:13 12 to, because the only communication that you should have
01:01:16 13 before you when you decide this case is the sworn testimony
01:01:21 14 from the witness stand and the exhibits admitted over the
01:01:23 15 course of the trial by the Court.

01:01:24 16 So if that happens, or I should say when that
01:01:29 17 happens, and one of the lawyers, one of the witnesses, one
01:01:32 18 of the people associated with either or both sides of this
01:01:34 19 case walks right by you on the front sidewalk or steps,
01:01:38 20 right past you on the stairs, and they don't speak and
01:01:42 21 they're not friendly, don't hold that against them. They
01:01:46 22 are not being rude. They are not being unfriendly. They
01:01:49 23 are simply doing what the Court instructs them to do.

01:01:52 24 Also, ladies and gentlemen, I want you to have
01:01:57 25 some general idea of how the trial is going to run over the

01:02:00 1 course of this week.

01:02:03 2 It has been my experience on the bench, and it
01:02:05 3 will soon be 10 years that I've been a United States
01:02:10 4 District Judge, it has been my experience over my entire
01:02:13 5 time on the bench that jurors in East Texas tell me over
01:02:16 6 and over again, we would rather start early and go late and
01:02:19 7 be away from our homes, our work, and our family a shorter
01:02:24 8 and fewer number of days than if we started late and quit
01:02:27 9 early and were away from our homes and our work and our
01:02:31 10 families a longer number of days.

01:02:32 11 So we will typically start each morning about
01:02:36 12 8:30. And I'm going to ask you each day to be in the jury
01:02:40 13 room, assembled, and ready to go in advance of 8:30. You
01:02:44 14 don't need to be getting here any later than about 8:15 or
01:02:49 15 8:20.

01:02:50 16 And there will be coffee and there will be snacks
01:02:52 17 provided for you in the jury room before we start each day.
01:02:55 18 But be prepared to come into the courtroom and start at
01:02:58 19 8:30 each morning.

01:02:59 20 Now, that said, you may have to wait on me some
01:03:04 21 mornings. There are things that come up that I might not
01:03:07 22 expect that I may have to take up with the lawyers outside
01:03:09 23 of yours presence.

01:03:11 24 So I won't promise you that 8:30 on the dot the
01:03:16 25 door is going to open and you're going to come in and we'll

01:03:19 1 start. But I need you there so that we can start that
01:03:22 2 early unless there's a reason not to.

01:03:24 3 Trials are not science. They're not predictable
01:03:30 4 in every regard. And there are sometimes things that arise
01:03:34 5 that I have to deal with that you're not aware of.

01:03:36 6 But I promise you, unless there's a reason not to
01:03:39 7 start right on time at 8:30, I will bring you in, and we'll
01:03:41 8 start at 8:30.

01:03:42 9 We'll take a recess each morning. We'll take two
01:03:46 10 recesses each afternoon. We'll take a lunch break usually
01:03:52 11 about 45 minutes because lunch is going to be on the table
01:03:55 12 waiting for you as soon as you leave this room and go into
01:03:59 13 the jury room.

01:03:59 14 And that's the general time frame. You should
01:04:01 15 know, we're not going to stop at 5:00 o'clock. I'm looking
01:04:07 16 at Juror No. 4. We're not going to operate on bankers'
01:04:11 17 hours here, as they say. And I know bankers work a lot
01:04:15 18 more hours when the bank's closed than they do when the
01:04:20 19 bank is open. But we'll probably go each day at least to
01:04:24 20 5:30, maybe to 6:00 o'clock. I want you to understand
01:04:28 21 trials are not a precise thing.

01:04:34 22 For example, some of these witnesses may be on the
01:04:37 23 witness stand 20 minutes, and they're off. Some of them
01:04:40 24 may be on the witness stand two hours or longer, and then
01:04:42 25 they're off. If we have a witness on the witness stand

01:04:45 1 who's finishing or close to finishing their testimony and
01:04:47 2 it's 5:45 and there's another 20 minutes or 30 minutes to
01:04:54 3 go, I may let that witness finish and let that be the place
01:04:57 4 we stop for the day.

01:04:58 5 If there's a witness that's going to be on there
01:05:00 6 three hours and the witness before steps off the witness
01:05:04 7 stand about 5:45, I'm not going to put a three-hour witness
01:05:09 8 on at 5:45 in the afternoon.

01:05:12 9 So it's not a perfect science. I'm going to have
01:05:14 10 the best calls that I can, but you should not plan on
01:05:18 11 leaving here at 4:30 or 5:00 o'clock. I hope we won't be
01:05:22 12 much later than 6:00 during the week. We might. But
01:05:25 13 somewhere in that 5:30 to 6:30 hour range, it's -- that's
01:05:30 14 usually where we stop for the day.

01:05:32 15 And, again, I do that because I don't want to
01:05:34 16 bring you back next week, and I don't want you to have to
01:05:37 17 go longer than a week to hear all this evidence and be away
01:05:40 18 from your homes and your work and your family more days
01:05:44 19 than it will take for us to get this case tried.

01:05:48 20 So plan on roughly 8:30 to about 5:30 or 6:00
01:05:53 21 o'clock in general terms. And, remember, it's not an exact
01:05:56 22 science, but that's my best estimate so you'll have some
01:05:59 23 idea about how to plan your travel each day back and forth
01:06:02 24 to the courthouse.

01:06:03 25 All right. Ladies and gentlemen, I'm going --

01:06:06 1 with those instructions, I'm going to excuse you for lunch.
01:06:09 2 It should be either in there or right with you shortly in
01:06:14 3 the jury room.

01:06:15 4 It is -- I've got about five minutes after 1:00.
01:06:19 5 We'll start -- I'll start about 2:00 o'clock, which should
01:06:25 6 give you 55 minutes. Use that time, as I mentioned, to
01:06:29 7 make sure the clerk's office has a good cell phone number.

01:06:32 8 Decide which of these devices so that I can see
01:06:34 9 your faces and the lawyers can see your faces you want to
01:06:38 10 use during the trial. And open them up and figure that out
01:06:42 11 over the course of the lunch break. Enjoy your lunch.

01:06:44 12 Follow all the instructions I've given you,
01:06:46 13 including, of course, not to discuss the case with each
01:06:48 14 other. And we'll have you back about 2:00 o'clock to
01:06:52 15 continue.

01:06:53 16 With that, the jury's excused for lunch.

01:06:56 17 COURT SECURITY OFFICER: All rise.

01:06:58 18 (Jury out.)

01:06:58 19 THE COURT: The Court stands in recess.

01:08:06 20 (Recess.)

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CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct transcript from the stenographic notes of the proceedings in the above-entitled matter to the best of my ability.

/S/ Shelly Holmes
SHELLY HOLMES, CSR, TCRR
FEDERAL OFFICIAL REPORTER

3/1/2021
Date